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Vol. V

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1936

No. 539

THE OHIO BELL TELEPHONE COMPANY,
APPELLANT,

vs.

THE PUBLIC UTILITIES COMMISSION OF OHIO

APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

FILED NOVEMBER 20, 1936.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JANUARY 18, 1937.

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By Commissioner Geiger:

Q. Just one question there. Does this estimate relate to manual excavation or machine excavation?

A. Manual excavation.

[fol. 5011] Q. What effect would it be if he used a machine?

A. It wouldn't make much difference in the machine excavation. I have played with machines or experimented with machines quite a little in the last couple of years.

Q. Isn't it a fact people are generally employing machines for excavating trenches now?

A. For out in the open country; and some attempted in the city. My experience with it in the cities is that it doesn't even pay its own way. It may save you labor but it doesn't cut your costs.

Commissioner Geiger: All right, that is all.

The Witness: And in the open country it is profitable to use it, where there are no service pipes or other obstructions.

By Mr. Burr:

Q. You were continuing with your answer, I think?

A. In checking over maps, work plans and examining soils in the large cities, I find that about 25 per cent of the Ohio Bell Telephone Company's conduit is in sand that would have to be completely sheeted during the construction of the conduit and manholes. That approximately six feet of it is in rock; and about eight per cent of the work that has been done in the past few years has required tunneling. This cost per cubic foot is based on five cents for clay digging, 50 cents per cubic foot for lot digging, a dollar for tunneling and 50 cents a trench foot for sheeting.

Q. Tell the Commission some of the other conduit costs which Mr. Allensworth has omitted in the compilation of this conduit costs.

[fol. 5012] A. Mr. Allensworth omits the cost of plastering the joints of the tile. He has omitted the cost of sid-filling and tamping. He has omitted the cost of tamping the back fill. Or if he has included the cost of those items in some of his other conduit costs, then his other costs would require performances all the more beyond the rate of actual average performance.

Q. Will you compare, Mr. Allensworth's loading performance of 27 cubic feet per man per hour with his excavating of 13½ cubic feet per man per hour?

A. According to my experience a man cannot dig or excavate in a trench at nearly one-half the rate that he can load loose dirt into a truck. The earth, to be thrown into the truck, requires the use of one tool, a shovel. The earth is loose and the man is free to handle it as he will; he is not handicapped in any way; while the man who works in the trench has to use, in most cases, a pick to loosen the earth, or if he is tunneling he has to use bars or mattocks to loosen the earth, and then change tools to throw it out, confined within the narrow limits of the trench; and he frequently has to get up and shovel the earth back from the top of the trench in cases where he is working on an extra deep trench. I would say that a man who is excavating, if he can excavate one-fourth or one-fifth of the amount of earth that another man can load, or that he himself could load into a truck, he would be doing well.

Q. And yet, Mr. Allensworth allows for excavating at the rate of one-half of the loading, does he not?

A. Yes, sir.

Q. What, in your judgment, is the average excavating performance compared with the average loading performance? I think you started to state it?

A. I would say that a man can load about four or five times as fast or as much earth in the same time as a man [fol. 5013] can excavate in a narrow trench.

Q. What have you to say as to Mr. Allensworth's performance in respect of mixing and pouring concrete?

A. Mr. Allensworth's detailed costs do not show any cost for the use of the mixer or the points where he would set up the mixer. He doesn't give much information on it other than to give the size of the gang and say 500 cubic feet per gang per day would be a good day's work, or his average day's work. My experience in building conduit, you are usually required to dump your dry materials on a side street other than the street on which you are building your main line conduit, mix your concrete there and wheel it to the trench.

Q. Now, his performance calls for how many cubic feet per gang per day?

A. 500.

Q. What, in your judgment, is a good average performance for that kind of work; and I am talking about as of June 30, 1925 unless otherwise specified?

A. I would say about 250 to 300 cubic feet per day for that sized gang.

Q. That is by that sized gang you mean Mr. Allensworth's sized gang?

A. As shown in his exhibit.

Q. Have you ever, in the construction of conduit, experienced an average performance of 500 cubic feet for such a gang per day for mixing, pouring and wheeling concrete?

A. No, sir.

Q. What have you to say as to the prices used by Mr. Allensworth for sand and stone in his conduit construction costs?

A. Mr. Allensworth has used prices on sand and stone quoted in Columbus as of June, 1925, which I believe to be in error. He has used $1.85 per cubic yard for sand and $2.18 per cubic yard for s-one. My investigation shows that those were prices per ton and not the prices per cubic yard for those materials. Washed sand and washed gravel [fol. 5014] or stone as used in conduit construction is generally sold by the ton in Ohio rather than by the yard. The cost per yard of those at that time would be $2.40 per yard for the sand and $2.50 for the stone, as of June, 1925.

Q. Well, to what extent would that item increase Mr. Allensworth's costs, or would it increase them at all?

A. It would increase it by several thousands of dollars.

Q. What other errors, if any, did you find in Mr. Allensworth's conduit unit costs?

A. As heretofore stated, 58 per cent of the Ohio Bell conduit is in the Cleveland district and more than 75 per cent of it is in Cleveland, Toledo, Akron and Youngstown. As of June, 1925, the Columbus prices were as follows: cement, $3.20 a barrel; sand, $1.85 a ton; stone, $2.18 per ton; common brick $15.50 a thousand; sewer tile, $.15 a foot.

As of the same date, Cleveland prices were: Cement, $3.20 a barrel; sand, $2.50 a ton; stone, $3.25 a ton; common brick $14.00 a thousand; sewer tile, 13.7 cents per foot.

In my judgment an average state price for these materials would be fair to apply in this case, and I have

therefore arrived at such an average by adding 25 per cent of the Columbus prices to 75 per cent of the Cleveland prices; this because 25 per cent of the materials would be used in the southern part of Ohio and 75 per cent in Cleveland, Toledo, Youngstown and Akron.

Q. In arriving at the conduit costs, which you have used for comparison with Mr. Allensworth's costs, in your Exhibit 1, sheets 1 to 7 inclusive, have you applied these average prices?

A. Yes, sir.

[fol. 5015] Q. And in your other exhibits, too?

A. Yes, sir.

Q. How much higher would Mr. Allensworth's conduit costs have been had he used those average material prices?

A. Approximately $150,000.

Q. Yes, for that item alone; that is in respect of those material items alone?

A. Yes, sir.

Q. What have you to say in respect of Mr. Allensworth's wrought steel pipe costs of $.3067 per foot for pipe used as subsidiaries, risers, bends, subsidiary conduits and the like?

A. The company's inventory shows black wrought iron pipe, and black wrought iron pipe as of June, 1925, cost 17 cents per lineal foot. Of course, they used the black wrought iron pipe on account of its rust resisting qualities.

Q. How much per lineal foot?

A. 79 cents.

Q. Yes.

A. That includes the cutting and couplings.

Q. And that difference alone would have what effect on Mr. Allensworth's costs?

A. Oh, I haven't figured up how it would affect the costs, Mr. Burr.

Q. Would it increase or decrease it?

A. It would increase the costs.

Q. What do you say as to Mr. Allensworth's typical conduit construction gang set-up and the number of non-primary workmen as compared with the number of primary workmen in his gang?

A. His typical gang set-up provides for 57 primary workmen and five non-primary workmen, the latter consisting of one foreman, one sub-foreman, one clerk, one water boy and one truck driver. In other words, he has two supervisors to 60 men.

Q. Yes.

A. An efficient gang would require about three additional supervisors or about one to every twelve men.

[fol. 5016] Q. Why do you say one supervisor or sub-foreman for each twelve men?

A. It has been my experience that on account of the character of the work, the type of men engaged in it and the almost constant necessity for meeting emergencies, including changes in plans, that in order to get your work done efficiently you will require about one supervisor to direct the work of about anywhere from ten to twelve men, but not over twelve men.

Q. What about the inspection of every piece of tile as it is laid?

A. The tile has to be inspected as it is laid and before the concrete protection is placed or the backfilling started.

Q. Does that require supervisory work?

A. Yes, sir.

Q. In your judgment, what further omissions are there in Mr. Allensworth's typical gang set-up for conduit construction?

A. In addition to the three omitted sub-foremen, Mr. Allensworth has omitted a night watchman, a tool and material man, a carpenter and two plasterers.

Q. What do you say as to the necessity of those laborers, commencing first with the night watchman?

A. Most conduit is constructed in public highways, and a watchman is required in order to see that the warning lights are kept burning, barricades kept in place, and to protect the tools and materials from theft and so on.

Q. What about the omitted tool and material man?

A. In an organization of 60 men, a tool and material man is not only necessary but will pay for himself from day to day.

Q. What is his particular function in your gan- set-up?

Commissioner Geiger: I think we can understand that without the record showing it.

The Witness: He disburses the tools to the men when they start work; he sees that every tool is returned to the [fol. 5017] tool box at the end of the day's work, orders materials and arranges for its delivery, instructs drivers where to dump it on the job. He also prepares the sections of cheesecloth which goes around each joint of the tile,

gathers up tools discarded during the day, provides new handles for picks and other tools and in general is a pretty busy man.

Q. What else has Mr. Allensworth omitted from his typical gang set-up, in your judgment?

A. He has omitted two plasterers, one for each crew of two tile layers.

Q. Are those plasterers necessary to the efficient make-up of such a typical crew?

A. Yes, sir. They place the cement and mortar around the tile joints and quite often they place galvanized iron patches over the chipped portions of the tile. They are a necessary part of a conduit construction crew.

Q. What about the carpenter; is such a man necessary for an efficient conduit construction organization?

A. Yes; in a crew the size Mr. Allensworth has set up, you need a carpenter to build bridges, put over the trenches for walks and for entrances into driveways and garages. You also need him to build special barricades at busy corners where your standard barricades won't do; and he has to build forms for the manhole roofs and also cuts the forms for the sheeting and for the shoring, or cuts the lumber for the sheeting and for the shoring.

Q. In what respect, if any, are the wages used by Mr. Allensworth for his conduit labor lower than those actually paid in Ohio Bell territory for that kind of work as of June 30th, 1925?

A. He uses a daily wage for his foreman of a 61 man gage of $7.50. Such a foreman engaged in that kind of [fol. 5018] work in Ohio would draw $11.50 per day.

Q. As of what date?

A. As of June 30, 1925.

Q. In what other respects do you consider Mr. Allensworth's wages for conduit work too low?

A. His daily wage for sub-foremen is $6.30 as against $7.70 as of June, 1925.

Q. What do you mean about the $7.70?

A. I mean that is what he would have to pay at that time; $7.70 for a sub-foreman to handle that kind of work.

Q. Yes, go ahead.

A. The company has certain wage scales for this kind of work, but the company does a very small proportion of its conduit work and in my judgment the conduit system, as a

whole, could not be reproduced at these wage scales.

Q. That is the wage scales of what?

A. That the company has filed or has set up.

Q. Yes; anything else?

A. Mr. Allensworth's clerk at 50 cents an hour should be 50 cents an hour in my judgment.

Q. Should be how much?

A. 60 cents an hour in my judgment.

Q. Yes. What about the daily wage for bricklayers used by Mr. Allensworth in his costs?

A. Mr. Allensworth has applied a daily wage of $10.00 a day for brick masons, and the union rates for brick masons in Ohio, as of June 30th, 1925, where most of this conduit would have to be rebuilt or reproduced, was $12.00 a day.

Q. What was the Ohio Bell wage scale for bricklayers, do you know?

A. No, I don't.

Q. Would your same explanation with reference to subforeman and foreman wage rates of the Ohio Bell apply to such wage rates as they might have had for bricklayers?

A. Yes, sir. They had wage rates for foremen and sub-[fol. 5019] foremen that were away out of line with that paid for the same superintendents under contract at about that same time.

Q. What have you to say as to the item of brick masons' helpers in connection with Mr. Allensworth's typical conduit gang set-up?

A. Instead of providing for brick masons' helpers Mr. Allensworth provides that laborers help the brick masons. He ascribed to these laborers a wage of $4.50 a day. The rate for brick masons' helpers where most of this conduit would have to be replaced in Ohio as of June 30, 1925, was $8.00 a day with double time for all time over eight hours.

Q. Was it always $8.00, or approximately eight?

A. Well, as far as I could learn it was $8.00.

Q. All right. What about Mr. Allensworth's wage rate of $.60 an hour for conduit or tile layers?

A. Well, the rate for that kind of work generally paid by contractors in Ohio in June 1925, ranged from 60 cents to $1.50 per hour.

Q. Now, when you say for that kind of work, do you mean that you couldn't have gotten the men on the average at 60 cents an hour?

A. You couldn't have gotten satisfactory help at 60 cents an hour.

Q. Tell the Commission just a little bit about that; make it as brief as you can.

A. It is possible to go out and hire men in an area where the current wage rate for common labor is 50 cents per hour, it is possible to go out and hire men for 40 cents an hour and perhaps 35 cents an hour; but you find after you do considerable work and you select the men who are the best producers, that you can't do very well with labor that is much under the current price; and the current price around [fol. 5020] Ohio at that time was about 50 cents for common labor and 65 on up for tile layers.

Q. What have you to say as to Mr. Allensworth's truck and driver cost of $8.50 per day included in his conduit and other labor costs?

A. His cost of $8.50 per day is entirely too low. The commercial rate on a one ton truck and driver was $1.50 an hour, $13.50 per day, as against Mr. Allensworth's $8.50.

Q. Is a one ton truck necessary in connection with that kind of work?

A. It is in general work in that kind of work for——

Q. What purposes?

A. Hauling tile left over, hauling water on certain occasions, hauling sheeting, shoring and moving the men and tools ahead.

Q. In addition to the light truck, what about Mr. Allensworth's five ton truck at $2.50 an hour including the driver, which he includes in his costs?

A. Well, he has used the price of $2.50 an hour for a five ton truck. A five tone truck including driver costs $3.00 an hour at that time, or $27.00 per day.

Q. In what territory?

A. In the Ohio Bell Company's territory. The conduit construction companies with which I am acquainted nearly all use two and one half ton trucks, and very seldom go into the five ton trucks in that kind of work; and for the two and one half ton truck they hire those for about $2.50 an hour on the average, including the driver.

Q. What have you to say as to the load required to be carried per five ton truck in Mr. Allensworth's costs?

A. Mr. Allensworth calls for a load of four cubic yards for a five ton truck, and those are cubic yards solid earth, not loose earth.

Q. How do you know that?

[fol. 5021] A. It shows it in his cross examination exhibit 11, page 2.

Q. To prime, isn't it?

A. To prime; that is right.

Q. Go ahead.

A. Four cubic yards of solid earth equal six cubic yards of loose earth or excavated earth. Loose earth weighs per cubic yard from 1500 to 3100 pounds. Taking the average of these two amounts, it would be more than 2400 pounds per cubic yard of loose earth. Six cubic yards at 2400 pounds per cubic yard would make a total of 14,400 pounds, or more than 7 tons. The five ton truck, itself, will weigh more than 10,000 pounds, so that the total is 24,000 pounds, or 4,000 pounds over the maximum truck and load weight permitted in Ohio, and for certain periods of the year this goes down to 16,000 pounds for truck and load.

Q. What have you to say as to his costs for hauling away surplus or excess earth?

A. He is in error in that he does not take into consideration the fact that solid earth, when excavated, increases roughly 50 per cent. in volume. This would increase by approximately 50 per cent. the volume of earth to be backfilled and hauled away, and would increase his total costs for these two items by approximately 50 per cent.

Q. What have you to say as to the items of air compressor, pavement breakers, spader and power pump shown in your conduit costs, but not included in his?

A. A conduit construction gang of from 60 to 65 men would require one air compressor with two pavement breakers and a spader, and the cost of this equipment would be $2.50 per hour, or $22.50 a day, which was and is the standard rate prevailing in and about Ohio for these tools. Mr. Allensworth has not included that expense in his costs at all.

[fol. 5022] Q. Or if he has, it doesn't appear?

A. It doesn't appear.

Q. Yes. What about a power pump?

A. Such a gang would also require a power pump at a cost of $3.00 a day, which is the standard fixed rate for some time around Ohio for that kind of equipment.

By Commissioner Geiger:

Q. Do all gangs require that?

A. Well, a gang of 60 men would.

Q. Well, what is a power pump for?

A. Pumping out manholes, pumping trenches.

Q. Well, have all the trenches in Ohio got water in them?

A. After a rain your trenches fill up with water.

Q. Well, do you mean to tell me——

A. During the time you are excavating you break water pipes and the trenches flood.

Q. And they would have to be worked all the time, every day?

A. The power pump wouldn't have to be worked every day.

Q. You charge up $3.00 a day for a power pump?

A. But when you need a power pump you have to have it right now.

Q. Well, you have got a charge of $3.00 a day; is that for each day?

A. Yes, sir. If you only use the power pump ten days in a month, it would pay you to have it with you when you follow a water main or service pipe.

Q. Does it cost as much when it isn't being worked as when it is worked?

A. Well, the usual charge on it is $3.00 a day when you rent it.

Q. Work or no work?

A. Work or no work. The same is true of the air compressor; the same is true of trucks. When you rent this equipment they charge you by the day or by the hour, and they are not concerned in whether you get that much use out of it or not.

[fol. 5023] By Mr. Burr:

Q. What have you to say as to Mr. Allensworth's crew organization supporting his conduit and manhole labor costs and his method or plan of reproducing the conduit and manholes in accordance with that organization?

A. He provides for a specialized organization which would not be workable in actual practice. Applied to conduit work he would have a special group engaged in breaking pavement, followed by a special group engaged in excavating, followed by a special group engaged in grading, followed by a special group placing the concrete base followed by a special group laying tile, followed by a special group engaged in sidefilling, followed by a special group

lacing the concrete top, followed by a special group engaged in backfilling and tamping, followed by a special group removing surplus earth, followed by a special group replacing pavement. Under such a plan all of the cheaper parts of the work would be done at corresponding low rates of pay, but in actual practice conduit is not constructed in that way.

Q. Why is that?

A. In actual practice the men composing the crews cannot always work at the particular kind of conduit work for which they are employed and paid.

Q. And that is why?

A. Conduit construction, which takes place almost entirely in the larger cities, is constantly faced with emergencies, due to the rights of the public, which must always be regarded, and to the insistence of the public authorities that they be regarded.

Q. Give us a specific example of how that works out in practice, and make it as brief as you can.

A. Frequently the trench passes a place of business. The proprietor puts up with a temporary bridge for a little [fol. 5024] while, and then asks that the trench be filled immediately, notwithstanding the men engaged in backfilling have not yet reached his property. The public authorities intervene and all members of the gang are thereupon ordered to cease their particular work of construction and devote their entire time to the backfilling.

Q. With what result——

By Commissioner Geiger:

Q. Wait. Do you mean to say that is incident to the construction of all trenches and conduit work, or is it just an emergency?

A. No, that has to do with a great portion of it.

Q. Well now, it don't seem to me—of course, if you say so it goes in the evidence—I have seen many trenches constructed and nobody is sitting out on the sidewalk and making them fill in their particular trench at a particular time.

A. I have seen some constructed that way, too. On the other hand I have seen quite a few constructed where they are out requiring that certain things be done.

Q. But if you apply that occasional situation to your entire structure in the State of Ohio——

A. No; I weighed it in connection with the amount of work done per day per man.

Commissioner Geiger: All right.

By Mr. Burr:

Q. What was the result of that sort of thing, or what was its effect on your costs?

A. Tile setters, plasterers, concrete workers and the like whose wages are much higher than the ordinary laborers, all pitch in and do the backfilling, thereby increasing the theoretical cost of backfilling.

Q. Yes. Now, when the trench is filled by rain or breaks in water pipes, what happens then?

A. Why, work is stopped on the front end of the trench [fol. 5025] and tile layers and plasterers and concrete workers are all thrown in to repair the break and keep the trench dry.

Q. That is the cheaper kind of work is done by the higher paid men?

A. By the higher paid laborers, yes, sir.

Q. Is it common practice to use tile layers, plasterers, mixer tenders, concrete workers, graders and other classes of higher paid conduit construction employees on excavating, backfilling and other classes of common labor when the work for which they have been trained is temporarily held up?

A. Yes, sir.

Q. Tell the Commission whether this reassignment takes place without any change in wage rates?

A. It does. There is no change made in their wage rates when they are taken off of one class and put on another.

Q. In your judgment, would it be practicable to do the work any other way?

A. No, sir.

Q. What effect, if any, does the attitude of municipal authorities in respect of the amount of trench permitted to be opened at one time have on such reassignment of men?

A. Well, that has quite an effect on it. The city inspector frequently tells you that you must stop the front end and not excavate any more or open any more trench until you have laid your conduit and backfilled a certain amount of that which is already opened.

Q. I note that in your Exhibit No. 1, sheets 1 to 7 inclusive, after each of Mr. Allensworth's per trench foot costs,

there appear in parentheses the letters "S. B.", followed by a figure. Will you explain what that means, please?

A. That "S. B." means "should be." That is when you [fol. 5026] total his figures that S. B. is what they actually total but not what he used.

Q. I see. Those are intended to point out errors in computation?

A. Yes, sir.

Q. What about your costs per manhole as compared with Mr. Allensworth's costs?

A. Why, the cost per manhole that I set up was $307.60. That is according, to my judgment, what it would cost the Ohio Bell Telephone Company to reproduce it as of June 30, 1925.

Commissioner Geiger: What page is that on?

The Witness: It is on No. 1.

Mr. Burr: Exhibit No. 1-A, sheet 8, shows it.

Q. Referring to the——

A. I didn't give Mr. Allensworth's cost.

Q. Yes.

A. That is compared with the cost set up by Mr. Allensworth of $192.30086 per manhole.

Q. Referring to the seven specific classes of conduit in respect of which you have compared in detail your costs with those of Mr. Allensworth, please tell the Commission what proportion of the entire Ohio Bell Telephone Company's conduit system is represented by those specific comparisons.

A. About 50 per cent.

Q. Yes. Are you prepared, at the request of the Commission, to discuss Mr. Allensworth's conduit costs for the other classes of the company's conduit and to show the respects in which you believe them to be too low, also?

A. Yes, sir.

Q. In that connection, have you made a detailed examination of Mr. Allensworth's labor and material costs comprising the remaining classes of conduit contained in the company's system?

[fol. 5027] A. Yes, sir.

Q. Your Exhibit A-1 covers your total cost, doesn't it?

A. Yes, sir.

Q. With what results of that examination?

A. I find that in respect to Mr. Allensworth's total, material costs, including freight and supply expense, he has computed the cost of tile, cement, gravel and other items of material at the same prices as in the specific comparisons which I have previously discussed, and I believe those prices to be too low in the respects heretofore stated.

Q. What have you found in respect to his labor costs, including supervision, incidental expense and tool expense for that same remainder of the company's conduit system?

A. Mr. Allensworth's cost for excavation, backfill and hauling away surplus earth per cubic foot being an average cost, is the same in respect of all sizes of conduit, and is just as much too low for this remainder of the company's conduit as it is too low in the cases specifically cited by me. The same is true of his cost of unloading, hauling, piling and distributing tile, which are the same per duct foot for all classes of conduit. The same is true for all of Mr. Allensworth's other costs, which include placing concrete encasement, laying tile, plastering joints and placing temporary pavement as to which Mr. Allensworth's cost per duct foot are the same for all classes of conduit.

Q. What is your judgment as to the sufficiency or adequacy of those costs of Mr. Allensworth's?

A. They are too low for the reasons heretofore stated.

Q. Still referring to the remaining portion of the company's conduit system not covered by your specific illustrations, what will you say as to the supervision, incidental [fol. 5028] and tool expense?

A. Mr. Allensworth's supervision, incidental and tool expense allowances for the remaining classes of conduit are the same as in the specific instances which I have pointed out, and are, in my judgment, too low for the reasons heretofore stated.

Q. In your judgment, could the conduit and manhole system of the Ohio Bell Telephone Company, as it existed on June 30th, 1925, have been reproduced for the costs testified to by Mr. Allensworth?

A. No, sir.

Q. In your judgment, by how much are Mr. Allensworth's conduit, manhole and paving costs as of June 30th, 1925, testified to by him in this case, too low?

A. In my judgment Mr. Allensworth's conduit costs are too low by not less than $4,025,121.00. His manhole costs are too low by not less than $991,341.00.

Commissioner Geiger: Does that appear on any sheet of the exhibit that you have?

Mr. Burr: That shows a comparison.

Chairman McCulloch: Have you summarized it?

Mr. Burr: Yes, we have, I think.

The Witness: Mine is summarized and Mr. Allensworth's is summarized, and I am giving you the difference now.

Chairman McCulloch: Is it summarized in these exhibits, is what I would like to get at. Where is it summarized; in the exhibits, and if so what page?

Commissioner Geiger: Go ahead; don't wait for me. I will find it.

Mr. Burr: We will make a summary, Your Honor, that may be a little fuller than the one that we have already [fol. 5029] used.

Q. Go ahead, Mr. Hogan.

A. According to my judgment, Mr. Allensworth's paving costs are too low by not less than $1,350,000.00.

Q. Yes. Have you prepared an exhibit which, applied to the inventory quantities, gives effect to the conduit, manhole and paving costs covered by your previous testimony?

A. Yes, sir. It is marked Hogan Exhibit No. 5 and consists of 23 sheets.

Mr. Burr: At this point we offer Hogan Exhibit Nos. 1, 1-A, 2, 3, 4 and 5 in evidence.

Chairman McCulloch: Is there any objection?

Mr. Calland: Your Honors, we would hardly object without a chance to look at them. I don't know of any reason for the moment.

Mr. Burr: May they be admitted then?

Chairman McCulloch: They may be admitted. If there is any objection we will hear it and settle it on a motion to strike that out. They will be admitted pending any motion that you want to submit. If no motion, they will remain in the record.

And thereupon the exhibits above offered were admitted in evidence on behalf of the Ohio Bell Telephone Company, and are herewith submitted marked respectively Hogan Exhibits 1, 1-A, 2, 3, 4 and 5.

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[fol. 5030] Q. Mr. Hogan, in respect of Mr. Allensworth's pole labor costs, please tell the Commission whether, dur-

ing your experience in the telephone business you have planned, erected and supervised the placing of telephone poles in various parts of the United States?

A. Yes, in several states.

Q. Does that experience include the placing of telephone poles by so-called independent companies as well as Bell system companies and electric light companies?

A. Yes, sir.

Q. In addition to your experience and planning, erecting and supervising the placing of poles, particular- telephone poles, what do you know of the labor costs incurred in that kind of work?

A. I have spent several years in the field with aerial construction companies, setting poles and placing messages and cable. I have made time studies, checked organization set-ups, checked methods; and while I was superintendent I used to spend considerable time in the field with the construction organizations in order to keep in touch with the difficulties they encountered in their work, and see that they got a fair day's work.

Q. Have you studied the performances and costs in respect of pole line construction in Ohio?

A. Yes, sir.

[fol. 5031] Q. Are you familiar with them for the past six or eight years?

A. Yes, sir.

Q. Are you familiar with the pole labor costs shown in Mr. Allensworth's exhibit of detailed labor costs in this case?

A. Yes, sir.

Q. How do his pole labor costs compare with your experience and the experience of other telephone companies known to you?

A. His labor costs are much lower than anything that I have heard of in the past ten years.

Q. What have you to say of Mr. Allensworth's truck costs for pole construction crews, $3.50 a day?

A. That is completely out of line with any organization set-up that I have ever heard of. The weight of tools and the weight of the sized crew that he shows on pole construction would come to about 6000 pounds, and a truck that you could hire for $3.50 a day would not carry a load like that.

Q. What would such a truck have cost in the Ohio Bell territory as of June 30th, 1925, if you know?

A. Trucks for use on that kind of work cost $2.50 an hour, or about $20.00 a day.

Q. Now, when you speak of trucks for use on that kind of work, do you mean specially equipped trucks or an ordinary truck capable of doing that kind of work?

A. No, I mean a two and a half or three ton commercial truck that you would hire for that kind of work would cost you $2.50 an hour.

By Commissioner Geiger:

Q. What do you mean by costing $2.50; have you got to rent it?

A. Yes.

Q. Ordinarily a part of the equipment of the gang that is laying or placing poles?

A. Well, you have to have a truck to carry the tools or to [fol. 5032] carry the men and move small material.

Q. You mean it would be cheaper to rent a truck at $20.00 a day than it would be to buy one?

A. Well, there is very little difference between buying and renting trucks as a rule.

Q. That is the better plan, to rent them?

A. In some cases and in other cases no. Telephone companies at the present time use trucks with special equipment on them to make it easier for the gangs to find tools and to find small materials.

Q. Well, what would that truck cost today, taking into consideration its cost?

A. I don't know. If you were to rent a truck like that it would cost you considerably over two and a half an hour. You see that truck would probably have a thousand to fifteen hundred dollars worth of special equipment on it; it would have bins for all the various pieces of hardware used in line construction; it would have special places for tools; so that when——

Commissioner Geiger: That is enough.

By Mr. Burr:

Q. In that connection look at the three photographs which may be marked for identification Hogan Exhibits 7, A, B and C, and tell the Commission what those photographs represent?

A. 7-A is a rear view of a telephone line construction truck, 7-B is a view of the right side of the same truck. 7-C is the view of the left side of the same truck.

Q. Are those photographs of the sort of trucks that you referred to in answering Mr. Commissioner Geiger when you said that the telephone company has trucks for this [fol. 5033] kind of work, trucks which are specially equipped?

A. Yes, sir, they have the specially equipped trucks.

Q. And in your judgment could such a truck be rented for $20.00 a day?

A. No, sir. I don't think there are any trucks made like that that you could rent.

Q. Such a truck could not be provided at the rate of $3.50 a day, could it?

A. Oh, certainly not.

Q. And yet, Mr. Allensworth's truck expense for this pole labor work is what?

A. $3.50 a day.

Q. Do Mr. Allensworth's labor costs for this class of work include any cost of the organization from the foreman of the gang to and including the general foreman?

A. No, sir, and if he has intended that that would be included in his 10 per cent supervision, that makes his 10 per cent supervision all the more too low.

Q. According to this Commission's system of accounting, is the cost from the foreman of the gang to and including the general foreman, a part of the direct labor cost of the job?

A. Yes, sir, the uniform system of accounts direct that that expense or cost be charged direct to the job as direct labor.

Q. Taking a 30 foot class C pole by way of example, what have you to say about Mr. Allensworth's average hole digging performance of 3½ holes per man per day for that kind of pole?

Commissioner Geiger: Explain what you mean by that.

Mr. Burr: Mr. Allensworth's costs for a 30 foot class B pole are based on the proposition, as I understand it, that one man in digging pole holes throughout Ohio Bell territory, will average 3½ holes dug per man per day.

[fol. 5034] The Witness: In my experience, if a man digs two holes for a 30 foot pole in a day he is giving you very good service.

Q. That takes into consideration what kind of digging?

A. Yes, sir, that takes into consideration rock digging or sand digging or wet weather or dry weather.

Q. Shale, hard pan?

A. Yes, sir; average of all kinds of digging in all kinds of weather.

Q. Yes. What will you say as to Mr. Allensworth's hole digging performances for the other sizes of poles covered by his appraisal?

A. Generally speaking they are as much too high as his performance for the 30 foot pole.

Q. By way of elaboration will you please explain to the Commission some of the factors encountered in pole hole digging and which you have taken into consideration in making your previous answers?

A. In ordinary contemplation the digging of a pole hole seems like a very simple operation. In practice there are a great many difficulties encountered which makes it a little more difficult to dig. When you dig a hole in sand you have to sheet the sides of the hole against the caving in of the sand. When you dig a hole in rock you usually have to blast it.

Q. In digging holes in sand, what is the common practice with respect to protecting the sides of the hole as the digging progresses?

A. Why, in a good deal of the work they use a barrel and sink the barrel as they excavate for the hole. That, of course, involves much larger excavation.

Q. Much larger than what?

A. Much larger than you would necessarily need in solid earth for that size pole.

[fol. 5035] Q. Yes. What about digging in the barrel?

A. You also have to spoon the sand out of the barrel as the barrel is sunk down into the ground, and you have to have additional men there at times to force that barrel down.

Q. How do Mr. Allensworth's performances in respect of digging holes, setting poles and the like, compare with the performance of those classes of work experienced by you and of which you have knowledge?

A. The performances that he has set up are about 100 per cent. higher than any performances of which I have knowledge, that is any average performances of which I

have knowledge; about 100 per cent. higher than any average performances of which I have knowledge.

By Commissioner Klinger:

Q. You mean the labor performance?

A. Yes, sir.

By Mr. Burr:

Q. Considering, as an example, Mr. Allensworth's performance in respect of poles and referring particularly to page 11 of his cross examination exhibit No. 10, under the heading of "Poles set per day," please tell the Commission whether you have ever experienced average pole setting performances such as those set out at that day?

A. No, sir.

Q. Take, for example, where Mr. Allensworth shows 18 foot toll poles and provides that they are to be set at the rate of 80 per day, and considering Mr. Allensworth's gang set up of one line man and four ground men for that kind of work, to what extent do you disagree with Mr. Allensworth's performance figures of 80 such poles per day?

A. On the class of an 18 foot size pole and using a five man gang, I say you would get very good average performance, taking into consideration weather conditions and soil [fol. 5036] conditions if they were able to set 15 to 20 poles per day.

By Commissioner Geiger:

Q. And Allensworth says how many?

A. 80.

Q. Considering further Mr. Allensworth's performance of 80—18 foot poles per day, will you please give the Commission some of the reasons why you believe his performance to be so much too high?

A. In setting 80 poles a day, 40 poles to the mile, that means that your gang setting the poles have to walk two miles during the eight hour- a day, and a gang loaded with their tools and working clothes won't average more than a mile an hour in walking.

Q. Now you mean by that that the men will either walk and carry their tools, dragging them along with them, or if they don't walk what will they do with the tools?

A. Well, they might happen occasionally to have a truck handy so as to put the tools on the truck and move them

to the next pole; but if you were to tie up a truck with five men, with the five man gang, the kind of a truck they would need on this kind of work, it would practically double the cost of the gang, or very close to it. You would have a $20.00 truck tied up with five workmen including one foreman.

By Commissioner Geiger:

Q. You have got one $20.00 truck on the job already?

A. Yes, that is with a 22½ man gang.

Q. Couldn't that be used to transport the other men?

A. You would have to have it at the particular hole at the moment they are ready to move in order to save delay in waiting for the truck.

Q. I see.

A. And each move, you know, is only about 135 feet to the next pole; but they would have to make 80 moves in a [fol. 5037] day according to Mr. Allensworth's performance set-up.

By Mr. Burr:

Q. Now then, going back to your illustration; if the men progress with their tools at the rate of about a mile an hour a day, going from one hole to the other, for the 80 poles, and walking at that rate, how many hours of the eight hour day does it leave for the actual work of setting the poles?

A. That leaves six hours of the eight hour day for the actual work of setting the poles.

Q. Right; and that leaves 4½ minutes per pole for doing what?

A. For carrying the pole over to the hole, up-ending it, aligning it with the other poles in the lead, backfilling and tamping it, piling earth up around the edge of the pole and scattering the balance of the earth so as to not leave an unsightly pile and picking up their tools for the move to the next pole.

By Commissioner Geiger:

Q. Let me ask one question; 80 poles set at 135 feet apart?

A. Yes, sir.

Q. How many miles does that make?

A. That is two miles.

By Mr. Burr:

Q. In this computation that you have made, have you made any allowance for the factor of lost time?

A. No, sir, I haven't, although regardless of the size of pole that you are working on, you have this, that is your moving time from one pole hole to another, one pole to another, is exactly the same whether it is an 18 foot pole or whether it is an 80 foot pole. Your lost time per gang is exactly the same whether it is an 18 foot pole or an 80 foot pole.

Q. Right. And does the element of lost time enter into the calculation?

A. Yes, sir, very considerably. It is an important factor in all classes of outside plant.

[fol. 5038] Q. Yes. And this illustration that you have given makes no provision for the fact that the men might lose time by reason of rain or other unusual weather conditions?

A. Well, that explanation I gave you don't take into consideration any losses whatever. It is just assuming that conditions are perfect, that there is no delay one way or the other, and still he has a set-up where he gives them 4½ minutes to set one pole.

Q. Yes. What have you to say in respect of Mr. Allensworth's pole setting performances for the other classes of toll poles shown at page 11 of his cross examination exhibit No. 10?

A. On the other classes of poles his performances are from a hundred to 200 per cent. too high.

Q. What have you to say in respect of his exchange pole setting performances shown at page 5 of his cross examination Exhibit No. 10?

A. In my judgment they are from 100 to 200 per cent. too high.

Q. By the way, do your comments on Mr. Allensworth's whole digging performance apply alike to toll and exchange poles; that is to say do your criticisms of his digging performances apply alike to toll and exchange pole holes?

A. Yes, sir.

Q. Why.

A. He uses the same performance for digging holes on toll that he does on exchange.

Q. Right. What have you to say in respect to Mr. Allensworth's use of exchange wage rates for toll construction crews?

A. Only in cases of extreme emergencies, I have never heard of exchange men working on toll lines out in the country at exchange rates; and under those conditions where you have a great deal of damage from sleet, storm or [fol. 5039] floods or tornadoes, and you send an exchange crew out on toll line work, they usually pay their board and lodging in addition to their exchange rates.

Q. Is it your judgment that the toll property of the Ohio Bell Company as of June 30, 1925, could or would be reproduced at exchange labor rates of pay?

A. No, sir; I don't think you could handle it on exchange rates of pay; I don't think the men would work at that rate and pay their own board and lodging.

Q. Has it ever been tried?

A. Yes, it has been tried to send them out and they wouldn't work at what would really be a lower wage. You see the toll job isn't nearly as desirable as the exchange job.

Q. Why?

A. The most important objections that men have to working on toll lines is that they can't have any home life, they have to keep moving as the toll line work progresses. They may only spend one or two nights at the same place and then they have to move on to another place, and you have to pay more in order to get the men; that is, more when you consider the board and lodging wage combined.

Q. Yes. Then what will you say, generally speaking as to whether toll labor costs which necessarily include board and lodging, are higher or lower than exchange labor costs which do not include board and lodging?

A. If you include the board and lodging with the average wage paid toll line men and toll ground men, it will exceed the average wage paid on exchange construction work for the same kinds of work.

Q. Do your comments, on exchange rates of pay for toll pole construction apply to all classes of toll outside plant? [fol. 5040] A. Yes, sir.

Q. Referring to the labor costs for aerial wire, during your experience in the telephone business, have you planned, erected and supervised the erection of telephone aerial wire?

A. Yes, in several states.

Q. Are you familiar with the cost of that kind of work in Ohio for the past several years?

A. Yes, sir, I have been familiar with those costs in Ohio for several years. In addition to my visits up here during 1925 I sent between 15 and 20 superintendents and supervisors from the New England Telephone and Telegraph Company to investigate the reasons for costs in Ohio being considerably lower than they were in the New England territory, and I received their report, in addition to checking with the people in charge of the Ohio properties pretty regularly on performance and on costs.

Q. Yes. Has your general experience with aerial wire labor costs included a knowledge of the costs experienced by independent telephone companies, as well as Bell system companies?

A. Yes, sir.

Q. Are you familiar with the labor costs of placing material wire shown in Mr. Allensworth's details of his labor costs?

A. Yes, sir.

Q. How does the Allensworth organization set-up for that class of labor compare with your experience and the experience of telephone companies generally with which you are familiar?

A. He has omitted from his direct labor costs the costs of the organization from the foremen to and including the general foreman. If he intends that to be in his 10 per cent. supervision, then his allowance for supervision is all [fol. 5041] the much more too low.

Q. What about his truck cost of $3.50 per day included in his exchange aerial wire labor cost?

A. I have about the same comment to make on that as I had on the toll pole line, that a truck capable of handling Mr. Allensworth's gang of 9½ men and their tools would cost about $20 a day as against Mr. Allensworth's cost of $3.50.

Q. Yes; and that $20 a day would be for a mere commercial truck and not for one specially equipped as the telephone company's trucks are?

A. Yes, sir.

By Commissioner Geiger:

Q. Now, this is for exchange aerial?

A. This is aerial wire, toll or exchange. He uses the same crew on toll as he does on exchange; same size crew.

Q. I was wondering what you need of a truck for an exchange aerial. What do you mean by aerial; all the wires strung in the city?

A. Yes, sir, on cross arms or on poles. You need trucks to carry your materials, to carry your tools, carry your men——

Commissioner Geiger: I see. You need a truck; you don't need to go into detail.

By Mr. Burr:

Q. Well, that practically answers my next question, and I was going to ask you what was the custom in respect of having trucks of that kind for aerial work, exchange and toll; but I think that has already been answered. What have you to say as to Mr. Allensworth's drop wire crew?

A. The typical drop wire crew that he uses——

Commissioner Geiger: Please explain—drop wire?

Mr. Burr: A drop wire is the drop that comes from say the pole into the subscriber's residence.

[fol. 5042] Commissioner Geiger: We don't know these terms.

The Witness: Mr. Allensworth, in his set-up, has used as a typical drop wire crew, an organization set-up that was abandoned for a much more desirable one some six or eight years ago in practically all the better companies. The old practice used to be to send out a crew to string the drop wire from the pole into the house, send out a delivery wagon to deliver the instrument to the house and the inside wire, send out an installer on foot to install the inside wire and the telephone and connect it up with the drop wire. Some six or eight years ago they decided for two reasons to change that type of organization. In the first place customers were annoyed by the three trips to their home in order to get in a telephone and they used to be constantly asking, "Why can't the one man, when he is here, do this job? It is a fairly simple job." That is from their point of view. So that the telephone companies some six or eight years ago, swung over to a new type of organization. The new organization would be a working foreman, called an installation foreman, who drove the truck and also worked,

and he would have one or more combination lineman-installers with him. At one visit they would string the drop wire to the pole to the house; they would have material on their truck for the inside installation. They would place the instrument, place the inside wire, hook it up and get it O.K'd at the one visit to the subscriber's premises. It also approved a more economical method for handling drop wire and installation costs combined.

Q. What about Mr. Allensworth's truck cost of $2.50 per day for his drop wire crew?

[fol. 5043] A. Well, in Ohio you use a Ford car converted into a delivery truck, and a truck that size would cost you about $6.00 a day to rent.

Q. That is as of June, 1925?

A. As of June, 1925.

By Commissioner Geiger:

Q. May I ask a question there? You have testified in a number of places about rental of a truck. Now, do you rent the trucks or do you own the trucks?

A. They rent them and they own them.

Q. Well, which is the prevalent plan; if you are going to do a job would you rent a truck or buy a truck?

A. Well, on the work that I am handling now, the company that I am with now, we rent all of our trucks and rent all of our equipment. The telephone companies, I don't know to what extent they rent and to what extent they own.

By Mr. Burr:

Q. Referring further to Mr. Allensworth's drop wire costs, what organization costs, if any, has he omitted?

A. In Mr. Allensworth's drop wire costs he has omitted the cost of the foreman, clerk, line assigner and order clerk, tester, supervisor and a general foreman.

By Commissioner Geiger:

Q. What for; drop wire?

A. Yes, sir.

Q. On each gang for a drop wire?

A. There is a proportion of the foreman's time, according to the uniform system of accounts should be apportioned to the drop wire work; a portion of the supervisors

and a portion of the general foreman. Now then, in addition to that——

Q. In addition to the overhead that you have already charged?

A. Yes, sir, this is direct labor.

By Mr. Burr:

Q. You don't mean to say that you have a general foreman with each of these installation crews?

[fol. 5044] A. No, sir, but a portion of the general foreman's time is properly chargeable to drop wire direct labor costs; that is some of it would go to drop wire, some of it to underground conduit, poles, aerial cable and so on. But from the general foreman down is direct labor. Now, when you get an order to install a drop wire or a telephone, you have your commercial people send out anywhere from five to seven copies of that order so that all people concerned will be advised of that installation at its completion, so that there will be no question about giving service. Those five to seven copies of the orders come to your assignment division, and the order clerk separates them, sends one to the traffic department so that they will properly mark their board——

Q. What do you mean by properly marking their board?

A. Properly mark the switchboard so that calls coming for this particular telephone as soon as it is installed or within an hour after it is installed can get through.

Q. I see; go ahead.

A. There is a copy of this order goes to the traffic department so that they see that the switchboard is attached for immediate service as soon as the telephone is in. A copy goes to their central information so that if anyone calls for that telephone or for that man's name they would be able to tell him immediately whether he has a phone or not and give him a number. A copy goes to the wire chief so that when the men from the field call in he has a copy there and will handle the cross connecting on the main frame in order to connect that particular cable pair, that this telephone is going to work over, with the switchboard. A copy [fol. 5045] goes to the field for the information of the men working, that is to give them the kind of service and the kind of equipment that is to be used on that particular installation.

Q. That is, if a man wants a two party or individual; is that in the information?

A. Yes, sir, that is in it. And if he wants a wall set, or if he wants a coin box, or if he wants half a dozen other kinds of telephones that the company has, that information is placed on the order. Now then, there is an order clerk. A part of her time or his time is properly chargeable to every installation, who distributes those orders. Next, before the orders go to the field, the field copy has to go to the assignment clerk and the assignment clerk has to search his cable record to find a vacant cable pair between the central office and the terminal closest to this subscriber's premises.

Q. What do you mean by that, so the Commission can understand?

A. Well, there is usually a cable plant in existence when the order comes in for telephone service——

Q. That is to say you mean there is cable in the vicinity of the subscriber's property?

A. Well, let us say that there is an exchange here, and that there is a customer out on Dunedin Road—that is the only street in Columbus that I remember the name of—a customer at Dunedin Road wants a telephone and this is the closest exchange. There is already underground cable out that far, and in the particular block that he lives in there is aerial cable with terminals on every second or third pole or whatever it happens to be. Now, before the workmen can do anything about that, the line assigner finds a vacant pair in the existing cable between——

Q. Pair of what?

A. Pair of wires in the existing cable between this cen- [fol. 5046] tral office here and the terminal in this block on which this customer lives, or prospective customer lives out on Dunedin Road. He gives him the number of the cable pair, he puts that down on the copy of the order. He gives him the number in the terminal; he also gives him——

Q. The terminal is the box upon the pole?

A. Yes, sir.

Q. From which the subscriber's drop would extend?

A. Drop wire extends from there into the house. He gives him the location of the terminal by street address or by pole number. Then that order is sent out to the field force; they collect the kind of equipment and materials that are necessary for that installation and they call at the subscriber's

premises to install the phone and frequently find nobody home. But the cost of that assignment clerk's time is properly chargeable to the cost of installing a drop and an insulated wire and telephone. Now then, next there is a copy of this order goes to the wire chief. The wire chief finds the designated vacant cable pair that is to be used in connection with this order; he finds it on his copy of the order. He gets an assignment of a line number from the traffic department, that is the number of the telephone, the number they are going to assign to this telephone. He runs a wire on the main frame connecting the cable pair with the switchboard. Then he does nothing more until he hears from the field force. When the field force has the drop wire strung from the terminal over to the subscriber's premises, or perhaps before they string it, they will call the test desk, or the wire chief's office, and have them test that cable pair to make sure that it is all right. Then when they string the drop wire over to the customer's house, install [fol. 5047] the inside work, the protector and the telephone, then they call the wire chief's office again and have the line tested and O.K'd, and as soon as the line has been O.K'd then the traffic is notified and the commercial and all departments involved are notified that that line is in service.

Q. Generally speaking, are all of those things required, whether your work involves only one drop wire or a continuous installation of drop wires?

A. You would have to go through those performances, the same performance with reference to every telephone installed, or every extension telephone installed, even if there is a telephone in you would still have to go through your routine in connection with an extension telephone.

Mr. Calland: Now, just a minute.

By Commissioner Geiger:

Q. I want to ask him whether that would be necessary to do all the things he just testified to in case of a reproduction of a line.

Mr. Calland: That was just the objection. I move to strike it out because it is plain he is talking about operating expense and maintenance of telephone and not to a reproduction theory at all.

The Witness: That would have to be done in this way regardless of whether you are reproducing or whether you

are not reproducing or doing it on a piecemeal basis; you would still have to write your order, separate your order; you would still have to assign cable pairs; you would still have to assign terminal attachment, you would still have to inform your field force as to cable pair and the cable terminal, the kind of equipment, the kind of materials to be used; and your cable force would still have to get O.K'd [fol. 5048] from your wire chief before the line would be in service, and your wire chief would have to cross connect the cable pair to switchboard before you could get service.

By Commissioner Geiger:

Q. Well, would it be as customary if you were doing it in a wholesale manner and reproducing your line, say 5,000 subscribers at one time, would it cost as much as it would if you were putting in new subscribers in an old system?

A. I expect that the Ohio Bell in Columbus handles that many now in a few months, 5,000.

Commissioner Geiger: I was taking a small town. All right.

By Mr. Burr:

Q. I think what the Commissioner would like to know is whether or not the expense would be the same in the event of a general reproduction of the property in a community as opposed to what you have just called piecemeal installation of drop wires?

A. I can't see that it would affect it at all, Mr. Burr. I think their costs would be just as high if you started out to replace every phone in Columbus as it is at the present time when you are putting in and taking out phones every day.

Chairman McCulloch: Did counsel for the attorney general object?

Mr. Calland: I did object. My objection was based upon the fact that he had not yet shown or testified that all of his detail would be necessary in a construction program. He has now done so definitely in connection with the Commissioner's question, and I am content to let it stand.

Mr. Burr: I may say that it is my recollection that during a part of the case perhaps before you were in it we put [fol. 5049] on a movie here which showed this whole operation. I don't know whether the Commissioners would like

to see that or not, but it shows very graphically, took about half an hour, I think, just exactly all these steps; and if the Commission would like to have it, I think perhaps we could get it back here. It is a very graphic sort of an illustration.

Chairman McCulloch: Well, we are finally going to want, I judge, all the information we can get upon this very complicated subject. However, you needn't go ahead with it now.

The Witness: I would like to say a little more on piecemeal construction as against wholesale construction.

Mr. Herbert: I object to this. There has no question been asked.

Mr. Burr: Well if it is a continuation of his previous answer.

The Witness: It is a continuation of the previous answer.

Chairman McCulloch: Do you insist on it?

Mr. Herbert: I would like a ruling.

Chairman McCulloch: If he wants a ruling on that, do you want to withdraw the question? It seems to me you ought to ask him a question and have him answer it. If there is too much of a continuation of the former answer, we may not connect the question with the answer.

Q. What further observation have you to make in respect to your drop wire installation testimony as reflecting on costs of reproduction as against piecemeal construction?

A. In general your construction crews at the present time and in 1925 were working as unit crews, with a full day's [fol. 5050] work, 300 days in the year.

By Mr. Calland:

Q. Will you say what you mean by "your"?

A. The Ohio Bell Telephone Company. Adding more crews would have absolutely no effect on the production costs of the existing crews; that is adding more in order to replace your entire plant in a given period.

By Mr. Burr:

Q. Because a crew is a unit?

A. Because a crew is a unit, and the efficiency of your crew would not be affected one way or the other by adding more crews. The only way you could affect the efficiency of your crew is by taking some of the workmen out of it

who are trained workmen and replacing them with untrained workmen, and that would make them much less efficient.

Q. To what extent have you had experience in directing and supervising the loading, hauling and unloading of the empty reels after the cable has been placed? The directing and supervising of the erection of aerial cable and messenger, and the placing of cable terminals in balconies, and also the directing and supervising of the placing of loading cases on toll aerial cable?

A. I have had years of experience in all of those kinds of work.

Q. Has your experience in those respects included both independent and Bell system telephone construction?

A. Well, with the exception of loading cases, which the independents do not use, I would say it has.

Q. To what extent have you been in touch with the costs for those kinds of work during the past few years, seven or eight or ten years?

A. I have kept pretty well informed on the costs of the various classes of work in the United States, including Ohio, [fol. 5051] for at least ten years.

Q. What personal experience have you had in respect of those kinds of work?

A. I have personally directed the work of loading reels from the cars to the trucks and from the cars to the ground, the unloading of the reels, the unlagging, setting up, pulling of the cable, loading up of the empty reels, hauling them back to the warehouse or to the car.

Q. What about erecting messenger and aerial cable?

A. I have also had experience in handling and directing the erection of messenger, aerial cable, terminals, cross arms, wires; all outside plants.

Q. Have you ever actually pulled the messenger—the messenger wire is one, Your Honors, from which is suspended rings every so often and the rings carry the cables suspended from the messenger—that is correct, isn't it?

A. Yes, sir.

Q. Have you ever pulled messenger wire, that is pulled it into place?

A. Yes, sir, I have often worked with the gangs.

Q. Have you ever tended reel while the cable is being pulled out?

A. Yes, sir.

Q. Have you ever directed the placing of loading cases on toll aerial cable?

A. Yes, sir. The handling of loading cases, especially the large ones, that weight from a thousand to 3000 pounds, is a pretty risky job, and there is considerable risk taken of injuring people if they are not properly handled.

Q. What are those loading cases which you say weight from a thousand to 3000 pounds, and where are they placed?

A. Well, they have loading cases that they place in con- [fol. 5052] nection with aerial cable and they have loading cases that they place in connection with underground cable. The underground cable loading cases, of course, are placed in large manholes, what they call load holes. They are built either adjacent to or along the main line of underground conduit runs. The aerial loading cases of the large sizes are usually placed on steel platforms between two poles set in line with the lead. They usually place the poles about 6, 8 to 10 feet apart and then put steel channel irons or angle irons along from one pole to the other and build a platform, and then they raise the loading cases up and place them on this steel platform.

Q. Is there any difference in the cost of placing the loading cases on poles and placing them in manholes?

A. Oh, there would be a great deal of difference; that is the cost of placing a loading case down in a manhole would not be one-third as high or cost one-third as much as placing them on platforms upon the poles.

Q. Now, briefly, what function do the loading cases or loading pots or load pots as they are sometimes called perform?

A. The loading cases, they contain the Pupin load coils. This load coil was invented to introduce self-induction on telephone lines at given intervals.

Q. Going back to the item of distributing cable, are you familiar with Mr. Allensworth's costs for hauling the cable as shown in his detailed labor costs?

A. Yes, sir.

Q. What observation have you to make in respect of those costs?

A. Mr. Allensworth omits the cost of supervising and directing the crew, which is a part of the direct labor cost; or if he intends that that cost is in this 10 per cent super- [fol. 5053] vision, it is all the more too low.

Q. Now, in your judgment is such supervision necessary?

A. Yes, sir, absolutely.

Q. What have you to say as to Mr. Allensworth's truck costs for hauling cable?

A. He has used a price of $2.50 an hour for a truck and driver; and I can't tell from his set-up whether he has intended that that would be a five ton truck or not, or whether it would require a five ton truck. If it is intended to be a five ton trunk the average cost of that during 1925 would be about $3.00 an hour.

By Commissioner Geiger:

Q. Now, does he put that in at $2.50 an hour?

A. Yes, sir.

Q. Did I understand you with reference to poles he had his truck in at $2.50 a day?

A. $3.50 a day.

Q. Yes, that is right. Now, he has used $2.50 an hour?

A. Yes, sir.

Mr. Calland: Just a minute, Mr. Commissioner, if I correctly understood the question and answer, it seems that Mr. Allensworth has in his set-up trucks for hauling poles at $2.50 or $3.50 a day, and that is erroneous. His truck for hauling poles is in at the same rate as this wire truck.

Commissioner Geiger: I don't think that was my view of it. It was used in placing poles; whether it was used for hauling poles or not.

Mr. Calland: Not used for hauling poles; accompanied a gang for setting poles; not a big truck hauling poles.

By Mr. Burr:

Q. Where Mr. Allensworth's distributing costs provide for three reels per load, what is his cost per reel?

A. $2.33 per reel.

[fol. 5054] Q. What is his cost per reel for hauling where he provides for four reels per load?

A. $1.75 per reel.

Q. As against those amounts, what, in your judgment, would be the cost of distributing per reel as of June 30, 1925 in Ohio Bell territory?

A. Approximately $5.00 per reel.

Q. How have you arrived at that amount?

A. Why, those reels of cable usually come with sufficient cable on to weigh about 5,000 pounds. The reels range

between 5,000 pounds and 6600 pounds, as a rule; and I have asked the Ohio Bell Telephone Company for some bills where they hired outside trucking concerns to deliver reels for them, and I looked over those bills and the costs averaged about $5.00 per reel.

Commissioner Geiger: Well, is that competent for an expert to give his opinion on looking at somebody's bills? There is no objection to it.

Mr. Calland: We don't object to it. It answers itself.

Mr. Burr: A very amicable proceeding.

Commissioner Geiger: Well, I would prefer very much, myself, that it would not be amicable, that it would be so we could get objections in; and if we can exclude testimony that is not competent, let us exclude it, because we have got to read all this stuff. Don't let us have anything in the record which isn't competent.

Mr. Burr: Well, I would suppose it is competent, because——

Mr. Herbert: We feel it is competent, but on another theory.

Mr. Calland: We would have to bring it out on cross-examination if he didn't bring it out now.

Q. Are you familiar with Mr. Allensworth's detailed [fol. 5055] labor cost for splicing aerial and underground cable?

A. Yes, sir.

Q. Have you compared Mr. Allensworth's splicing organization with splicing organizations in general use throughout the country, and if so with what results?

A. Mr. Allensworth's unit prices for splicing labor are based on having no splicing organization other than the splicer, helper and an auto for aerial cable splicing, and the splicer, helper, and 15 cents per day for delivery of supplies for underground splicing. You can't run a splicing organization of several hundred people without having a foreman, supervisors and so on to direct them without considerable delay and demoralization.

Q. In what respect does Allensworth's splicing organization differ from organizations commonly used by telephone companies including the Ohio Bell Company for the past five, six or seven years?

A. Their common practice is to allot a splicing area or an area to a splicing foreman; assign him about six splicers,

six helpers, two extra helpers one-half of a clerk's time and one-third of the time of an electrolysis and galvanometer crew. One-third of the time of a truck and driver to deliver supplies and move tools; this crew to handle all splicing in the area, aerial, underground, block and house.

Mr. Burr: Does the Commission desire an explanation of the electrolysis and galvanometer crew and the necessity of such a crew?

Chairman McCulloch: I would like to be informed about it.

Q. Will you advise the Commission, Mr. Allensworth, with respect to the necessity for an electrolysis and galvanometer crew?

A. As soon as an underground cable is placed in a new line of conduit, they make tests for stray currents from [fol. 5056] street railway systems which may be traveling back over their cables toward the power house, and wherever these currents leave the cable they usually take the sheet-ing with them. Now, the men who make those tests they call a electrolysis man; they are testing for electrolysis or leaks of spent current or stray current sheet to ground or to other structures.

The galvanometer men are the men who handled the galvanometer for testing the insulation resistance of the paper insulated cable after it has been installed. The requirements for good service require an insulation resistance of 1,000 megohms per mile on paper insulated cable, and on some of 5,000 megohms per mile; some classes of cable.

Commissioner Geiger: What do you call that?

The Witness: Megohms, m-e-g-o-h-m-s.

Q. What does that mean?

A. It means a million ohms, I think; I am not positive about that.

By Mr. Burr:

Q. Well, without particular reference to the extent or capacity of a megohm, what would you say as to the necessity for such an electrolysis and galvanometer crew?

A. Those people are needed in an organization of that kind.

Q. How does Mr. Allensworth's performance on splicing work compare with what you know to be the experience of

the Ohio Bell Telephone Company and telephone companies, generally?

A. His splicing performance is away above any average that I know of. As a typical example, Mr. Allensworth's cost per splice, page 145 underground cable, on 600 pair 22 gauge underground cable, he gives a cost of $13.831 per straight splice, $16.477 for multiple splice and $17.351 for a tag splice, divided by his hourly splicing rate of $1.25 per [fol. 5057] splicing hour, gives about 11 hours for a 600 pair straight splice, about 13 hours for a 1600 pair multiple splice, and about 14 hours for a 600 pair tag or test splice.

Q. Yes. Now, without conceding that eleven hours are sufficient for a 600 pair straight or random splice, will you discuss Mr. Allensworth's other splicing performances, starting with 11 hours for a 600 pair straight or random splice.

A. I would say 11 hours for a 600 pair straight or random splice is good performance; that is providing there is no water to pump or bail, no delay on account of rain, no gas in the manholes, no night work on account of street congestion, no section test for defective pairs, no test for insulation resistance, and that there is no splicing open for transposition of defective pairs; but these are actual and frequent occurrences, and 11 hours for 600 pair straight splice is not sufficient.

600 pair multiple splice requires about 50 per cent more than a 600 pair straight splice, or more than 16½ hours against Mr. Allensworth's 13 hours.

His performance of 14 hours for a 600 pair tag or test splice; each end of a pair of wires has to be identified and tagged, making 1200 pairs and 24 tags in all, in addition to setting up the cable, stripping the sheeting, drying the cable core with paraffin, splicing, wiping and racking, is away beyond the reach of the best splicers. A very good performance on this splice would be 34 man hours, and you would also require an extra helper to guard the manhole while the regular helper is giving the splicer a test from the terminals.

Q. In referring to the 1200 pairs, I think you said 24 [fol. 5058] tags in all?

A. 2400.

Q. Yes.

A. You have to test out both ends of it; that is you have to test the side toward the switchboards and test the side towards the terminal; in other words 600 pairs, 1200 would be tested in each direction.

Q. Will you give the Commission, as briefly as you can, just what is involved in the splicing of a 600 pair cable where it is a tag splice?

A. Why, the first part is getting the manhole open, cutting ice or snow or whatever happens to be there, or building a dam around it to keep water from flowing into it; and after they get into the hole they set up the cable; in other words they bend it from the duct line which enters at about the center of the manhole over to the side walls on which the splice is to be made and supported. After they have that done they strip the sheathing off, they pour paraffin over the paper insulated wires, and they usually remove the insulation from the ends of the wires; send their helper to the central office or to the terminal that they are going to test from first.

Q. How many wires would there be in a cable of perhaps 3 inches in diameter?

A. In a 600 pair cable you would have 1212 wires.

Q. To splice?

A. Yes, sir.

Q. And there are 1212 wires in the end of each of the cables that are spliced?

A. That is right. You would have to identify by means of something equal or comparable with a telegraph sounder each wire; that is you have to identify the wire that is terminated on No. 1 lugs in the central office, the wires which terminated on No. 2, No. 3 and No. 4 and so on. Then you would have to find the other end and identify the [fol. 5059] wires from the terminals at the other end of the cable in the same manner and splice them together. After they have been spliced they have to be dried out with paraffin, wrapped up, sleeve wiped on, lead sleeve wiped over the splice.

Q. Is such an operation necessary in the reproduction of a property?

A. Every part of it.

Q. Using your splicing gang set-up and taking as a starting point Mr. Allensworth's 11 hours per 600 pair of 22 gauge straight or random splice, what would be the cost

per splice for a straight or random splice, for a multiple splice and for a test splice, using a 600 pair 22 gauge cable as a typical illustration?

A. For a 600 pair straight splice, the direct labor cost would be about $20, plus $2.40 for use of a truck, or a total of $22.74. I should have said $20.34 there instead of $20.

Q. Yes; that is a total of $22.74 for what?

A. That is a 600 pair straight splice as against Mr. Allensworth's cost of $13.831 for the same kind of splice. For a multiple splice, $31.00 plus $3.66 for truck, or a total of $34.66 as against Mr. Allensworth's cost of $16.477.

Q. Yes. The $34.66 is your cost for that operation, isn't it?

A. Yes, sir.

Q. Proceed.

A. For a test or tag splice, in my judgment, it would cost $65.96 for direct labor plus $7.78 for truck, or a total of $73.74 as against Mr. Allensworth's $17.351.

Q. In the matter of returning empty reels; how many reels per truck load are assumed in Mr. Allensworth's costs?

[fol. 5060] A. Why, he shows 9 empty reels returned at one load.

Q. Yes. What is the body length of a standard five ton truck used for that purpose?

A. About 12 feet, with about 2 feet of the 12 taken up for a winch.

Q. How many reels will such a truck carry?

A. About four.

Q. What is the size of the reels?

A. The reels measure 58 inches in diameter, 32 inches in thickness, and the spool part of the reel extends to within 17 inches of the outer edge of the reel.

By Commissioner Geiger:

Q. What is the size of that truck?

A. Five ton truck, 12 feet long by about 4½——

Q. And carry only four reels?

A. The reels are practically 58 inches——

Q. That is after the cable——

A. Cable has been removed.

Q. How much does four reels weigh?

A. As far as weight is concerned, the truck could easily carry them. As far as the bulk is concerned, you would have to have special truck bodies to handle them.

Q. Do you mean to say that a truck of the size you stated can only carry four empty reels back?

A. Well, you have a truck with a 12 foot body, about 2 feet of it taken up for a winch.

Q. All right.

A. That leaves you a 10 foot body, and your reels are 58 inches in diameter, and they can overlap or nest 17 inches, and your reels are 32 inches wide, they take up the width of your truck.

By Mr. Burr:

Q. The reels are stood on end, are they?

A. Yes, sir, they stand them on end. Of course, if you had some kind of a loading arrangement where you could pick up a 700 pound load and lay it flat on the truck and then [fol. 5061] have an unloading arrangement at the other end so that you could take it off, you could get a good deal more on a truck; but the way these reels are loaded, two or three men takes and roll them up on skids on the truck, and they are handling seven to 800 pounds in the reel alone.

Q. So they roll them up and stand them side by side and nested in so far as they can be nested on account of the size of the spool?

A. Yes, sir.

Q. Yes. Now, I think you have given the practice in respect to loading. In addition to the reels themselves, what are the lags?

A. The lags are the pieces of about two by four that they nail or spike across the flanges of the reels in order to protect the cable in shipment.

Q. That is, in other words, after the cable is wound on the reel, slats or cross pieces of wood called lags are nailed from one lip of the spool to the other, are they not, thereby completely encasing the cable?

A. Yes, sir.

Q. And when the cable is to be taken off from the reel those lags are first removed?

A. Those lags are first removed.

Q. Is it the custom to return those lags with the empty reels?

A. Yes, sir.

Q. What is the length and thickness of the lags?

A. They are 32 inches long and 2 inches thick.

Q. What would be the total bulk of the lags for four reels?

A. About 30 cubic feet after they are bundled.

Q. What is Mr. Allensworth's cost per reel for returning the empty reels?

A. 62 cents.

Q. In your judgment, what would be the actual expense per reel for returning them?

A. Approximately $2.00

[fol. 5062] Q. How do you arrive at the $2.00?

A. I took into consideration the number of men that will be on the truck and the number of empty reels that they would load up and haul back to the warehouse or the cars.

Commissioner Geiger: How many on the truck?

The Witness: Three men.

Commissioner Geiger: In addition to the driver?

The Witness: No, two in addition to the driver.

By Mr. Burr:

Q. Has Mr. Allensworth allowed anything for broken lags and broken reels in his cost, so far as you have been able to find?

A. No, sir.

Q. If they are broken, that is to say either the reels or the lags, is the expense of their breakage charged to the telephone company?

A. Yes, sir.

Q. In respect of the matter of erecting messenger and aerial cable, I think you have already said that you have had a great deal of experience in directing and supervising the erection of that kind of plant. Have you checked Mr. Allensworth's crew set-up and labor cost for erecting messenger and aerial cable?

A. Yes, sir.

Q. How do they compare with your construction experience and that of telephone companies generally with which you are familiar?

A. Oh, I would say his organization set-up is not typical of that used in telephone construction work. I know of no company, or don't recall any performance anywhere comparable with the ones that Mr. Allensworth shows.

Q. That is you mean average performances comparable with his average performances?

A. Yes, sir.

Q. What else have you to say in respect of Mr. Allens-
[fol. 5063] worth's costs for the item of erecting messenger and aerial cable?

A. He has omitted the cost of supervising the work from the foreman to and including the general foreman. He has used a truck cost of $2.00 per day whereas a truck and winch adequate for this kind of work would cost about $14 or $15 a day without a driver, and about $20 a day with a driver. He has omitted the cost of placing rings for aerial cable, which cost is about .6 of a cent per foot of cable. He has included his stable and garage expense in his labor costs. In this way his direct labor costs are made to appear to be higher than they actually are, and his stable and garage expense as such becomes less than it actually should be.

Q. Referring again to the matter of loading cases; what have you to say as to Mr. Allensworth's cost of placing the loading cases——

Commissioner Geiger: May I ask what a loading case is; is it that that goes up on the pole?

Mr. Burr: Yes, sir, they are the large pots that go on the poles, or in the manholes, and they weigh from a thousand to 3000 pounds, according to his testimony.

Q. What have you to say as to Mr. Allensworth's cost of placing the loading pots in place?

A. He has allowed the same price for placing loading pots in manholes as for placing them on poles. His cost for placing them in manholes is too low, so that his cost for placing them on poles is much too low.

Q. Based on your experience in the telephone business, and referring now to outside plant generally, and not to conduit construction alone, do you believe it to be practical to close down and cease the construction of telephone out-
[fol. 5064] side plant during the winter months of say November, December, January and February?

A. No, sir.

Q. Why do you say that?

A. In the first place I don't believe that your public would accept a statement that you had closed down for the winter as a satisfactory explanation for holding them up on serv-

ice for three or four months; and in the second place, if you closed down from November 1st to April 1st, or to March 1st, you woud have to reorganize every year. Telephone men want steady employment, and if you don't give them steady employment, they will seek steady employment some place else. They have wives and families and homes, and I don't think anybody would propose a rate based on sending telephone men out to seek employment during the worse months in the year.

Mr. Calland: I object to that last statement, if the Commission please, and move that it be stricken out.

Commissioner Geiger: What part?

Mr. Calland: Oh, about he didn't think the Commission ought to base a rate on sending men out to get jobs or something. I didn't quite get it.

Mr. Burr: We see no objection to striking it out.

Chairman McCulloch: Strike it out.

Q. Well, Mr. Hogan, what do you say would result from the dismissal of the men in the fall, say in November, and an attempt to re-employ the men again in February for this kind of work; what effect would that have on the ability of the company to maintain its corps of skilled or semi-skilled men necessary for the reproduction and construction of the property?

A. I don't believe workmen would stay with you under those conditions. I think you would have the job of organ-

[fol. 5065] izing and training every year.

Q. Yes; and what effect would the necessity for organizing and training a new gang or a new crew or a new organization each year have upon the performance that you would get from such an organization?

A. Your performance would be much lower. If you take and add even 10 per cent. of untrained men to a trained force, it has the effect of lowering your performances.

* * * * * * *

[fol. 5066] PHILIP HOGAN, resuming the stand for purposes of cross examination, continued his testimony as follows:

Examined by Mr. Herbert:

Mr. Herbert: I believe it is understood that this cross examination is just more or less introductory in general

rather than any intention to make a detailed cross examination until they are through.

Mr. Thompson: That is entirely satisfactory. It is the same kind of an arrangement we had in the few preliminary questions we asked Mr. McBerty?

Mr. Calland: Exactly.

By Mr. Herbert:

Q. Did you testify, Mr. Hogan, that you were with the New York Telephone Company from 1899 until 1912?

A. Yes, till February, 1912.

Q. That was all with the one company?

A. Yes, three different divisions.

Q. Who owned that company?

A. I can't tell you at that time. I am pretty certain at the present time that the American Telephone and Telegraph owns practically 100 per cent. of the stock.

Q. And do you know when they acquired that?

A. No, I can't tell you that, Mr. Herbert. In 1899 when I went there there was the New York and New Jersey oper- [fol. 5067] ating in Jersey and in Long Island, and there was the New York Tel operating in Manhattan and the Bronx and part of Westchester. Then there was the Hudson River Telephone Company operating in the neighborhood of Albany.

Q. You worked for the New York Telephone Company during that time?

A. Yes, sir.

Q. And the Missouri and Kansas Telephone Company, or Kansas City Telephone Company—what was the name of the company you worked for?

A. There was a Missouri and Kansas Telephone Company that I went to from Buffalo.

Q. And who owns that company?

A. I think a majority interest in that company was owned by the American Telegraph and Telephone Company at that time.

Q. And the Southwestern Telephone Company?

A. I am pretty certain that practically all the stock was owned by the American Telephone and Telegraph Company.

Q. The Kansas City Telephone Company at the time you worked for it, was being taken over?

A. No, the Kansas City Telephone Company was organized by the Theodore Gary Company, and the common stock,

I am pretty certain, was practically all held by A. F. Adams and Theodore Gary and their associates.

Q. And was that turned in to the American Telephone and Telegraph Company?

A. In 1925 or six the Southwestern Bell Telephone Company purchased the Kansas City Telephone Company.

Q. Were the companies associated in 1921 when you went there as chief engineer?

A. Were they associated with the Bell?

Q. Yes.

A. The common stock was practically——,

Q. No, just answer my question, were they associated with [fol. 5068] the Southwestern?

A. Well, in what way, Mr. Herbert?

Q. In an operating way.

A. They had interconnecting service; that is you could call on a Bell phone in St. Louis and get a telephone in the Kansas City Telephone Company's plant in Kansas City.

Q. Was there any association of their stock?

A. I don't think there was of the common stock. There was some preferred stock held by the Southwestern Bell.

Q. In 1924 when you were transferred to the New England Telephone Company, was that an American Telephone and Telegraph subsidiary?

A. I think the American Telephone—that is the records at that time showed the American Telephone and Telegraph Company owning about 62 per cent. of the stock, or it may have been as low as 58. The balance of it was at large and was traded in on the Boston stock market and still is.

Q. Now, when you went into business for yourself developing a patented pole reinforcing device, that was for how long a period?

A. I spent from about May 1st, until about September 25th I devoted all of my time to that.

Q. In Massachusetts?

A. In Newton, Massachusetts, yes, sir.

Q. Did you perfect the device?

A. Well, I own the patents on it, and I was perfecting it through the Vulcan Iron Works at New Britain, Connecticut.

Q. Who uses the device?

A. The Brooklyn Edison Company, practically all electric light companies. There were none sold to telephone companies.

Q. You completed that work in the four months and then went to the American Cable——

A. Cable and Conduit Company, yes, sir, that is right.

[fol. 5069] Q. Who owns the American Cable and Conduit Company?

A. M. P. Murphy.

Q. Where does he live?

A. Cleveland; 1864 Alverson Road; his office is 805 Union Trust Building.

Q. Who are the directors of the company, if you know?

A. At the present time?

Q. Yes.

A. I don't know; that is I am not connected with that company.

Q. Who were at that time when you were with them?

A. At that time Mr. Murphy, a man named Connor, I think it was A. R. Connor——

Q. Who else?

A. Myself; that is I was elected director January 1928 when I was elected president; and I think P. V. Fichel was elected director in the January meeting, 1928.

Q. Are you still a director in that company?

A. No, sir; have no connection with it.

Q. Mr. Fischel?

A. No, sir.

Q. You say P. V.?

A. P. V., like in Vincent.

Q. Who are the directors of the G. F. Ryan Construction Company?

A. That is T. F.; Thomas F. Ryan Construction Company. I am a director in it and Mrs. Ryan is a director in it and Mr. Ryan is a director.

Q. Three directors?

A. Yes. It is incorporated under the laws of Illinois. I am also vice-president of it.

Q. And who are the directors in the Fischel Construction Company?

A. Mr. P. V. Fischel, Mr. H. B. Cushing and myself.

Q. The two companies are not related?

A. No connection between them, no, sir.

[fol. 5070] Q. You are an officer in both companies?

A. I am an officer in both companies, yes, sir.

Q. Now, will you describe the nature of the work of these two companies?

A. That is the T. F. Ryan now and the P. V. Fischel Construction Company?

Q. Yes.

A. The T. F. Ryan Company has bid on and been the low bidder on three conduit construction jobs let by the Illinois Bell Telephone Company, or it may be Bell Telephone Company of Illinois, but it is the same thing. The P. V. Fischel Conduit Construction Company has bid on about ten jobs let by the Ohio Bell Telephone Company and was low bidder on two. We bid on one job let by the Long Lines Department of the American Telephone and Telegraph Company, and were the successful bidder on that one job.

Q. I will ask you again if you will tell us the nature of the work of the two companies. I am not interested in the bid; I didn't ask you anything about those.

A. I beg your pardon. It is underground conduit construction.

Q. What other companies in Cleveland do that kind of work?

A. The H. A. Penote—Mr. Herbert, do you want the companies that bid on it or just the companies that have headquarters in Cleveland? There are quite a few companies bid on this work in various states.

Q. I will withdraw the question. What other companies besides the Ohio Bell Company has the P. V. Fischel Company worked for?

A. The American Telephone and Telegraph Company, Long Lines Department. You see they were just organized in October or November.

Q. What other companies has the G. F. Ryan Construc-
[fol. 5071] tion Company done any work for?

A. The T. F. Ryan Company has done no work for any other company than the Illinois Bell Telephone Company.

Q. That is an A. T. & T. owned and controlled company, is it?

A. I don't know what portion of that is owned by the A. T. & T., but I feel pretty certain there is a majority of the stock owned by the A. T. & T. They have some preferred stock on the market. I don't know whether any of their common is held outside of the A. T. & T. or not.

Q. Now, in what capacity are you appearing here as a witness in this case?

A. As an expert on conduit and other telephone outside plant construction.

Q. Are you appearing here in a personal capacity or as representative of your companies?

A. I am in a personal capacity. My companies have nothing to do with this.

Q. Do you own any stock in the American Telephone and Telegraph Company?

A. I can't say that I do. I was paying on six shares of stock in the American Telephone and Telegraph Company, and my wife was undertaking to sell that about a month ago. Now, whether she has sold that or not, I don't know. That was that partial payment stock.

Q. That six shares is all that you would own; is that correct?

A. That is correct.

Q. Have you ever owned any shares of stock other than that in the American Telephone and Telegraph Company?

A. I purchased about 40 shares of stock through the employees' purchase plan at various times, and sold it later on. At another time I purchased on margin, a hundred shares of American Telephone and Telegraph Company stock while I was in St. Louis, and held it for about a four [fol. 5072] point rise, and the rights on it, and then let go of it.

Q. I don't want the whole detailed history. I just asked you one question, if you had.

A. Yes, sir.

Q. Have you ever inspected any so-called independent companies in Ohio?

A. Their plant?

Q. Their plant?

A. No, sir.

Q. Or as to their cost of operation?

A. No, sir.

Q. And performance ?

A. No, sir.

Q. Now, you testified as to the difficulties in connection with conduit construction, in regard to the requirements of cities and so forth and in regard to trench openings, tunnel, canvas on the lawns and temporary pavements and that sort of testimony?

A. Yes, sir.

Q. Is that condition that you set forth peculiar to Ohio?

A. No, sir.

Q. Or is that general?

A. That is general; in city work that is general.

Q. Then the Ohio Bell Telephone Company would not be any different in that regard than any other company?

A. I don't believe they would. Certain cities in Ohio are a little stiffer in their requirements than certain other cities, and I take it that certain cities in Ohio might be a little bit stiffer than certain cities in another state.

Q. And there might be certain cities in another state that would be stiffer than Ohio?

A. Yes, sir.

Q. So that the average is about the same, is it?

A. I would say that requirements of cities would average up pretty well; that is, of fairly large cities of fifty to 100,000 or larger would average up pretty well over the [fol. 5073] country, that is in all the places that I have been.

Mr. Herbert: That completes our cross examination at this time.

Redirect examination.

By Mr. Burr:

Q. Mr. Hogan, when you were first employed to do your work in connection with this case, were you or any of your companies doing any work for the Ohio Bell Company?

A. At the time I was taken in on this case I was with the American Cable and Conduit Company as their president.

Q. Yes.

A. And for three or four years prior to that they had been bidding on telephone work, and successful bidders on a good part of it in Ohio and in Indiana, for the Ohio Bell Telephone and for the Indiana Bell Telephone; and they also bid on some electric light work—the only one I can recall now is the Toledo Electric Light Company that they took a contract for; I don't remember the name of it, it might be Toledo Edison.

Q. Do you own any stock in the Ohio Bell Telephone Company?

A. No, sir.

Q. Have you ever owned any?

A. No, sir.

Mr. Burr: That is all.

By Commissioner Geiger:

Q. Did I understand you to say you had been bidding for work for these companies?

A. Yes, sir.

Q. Well, did you get the contracts?

A. Why, out of about ten jobs that we bid on since last [fol. 5074] October, for the Ohio Bell Telephone Company, we were low bidders on two.

Q. Are the two the only contracts you have got?

A. Yes, sir, two bad ones.

Q. Prior to that time, what was your connection with furnishing your materials to the Ohio Bell Company?

A. Well, from September 1927 to September 1928 I was with the American Cable and Conduit Company.

Q. Did they furnish any——

A. That was another contracting company who bid on Ohio Bell Telephone Company's work, and they were successful bidders on quite a few jobs. They usually have from five to eight contracting companies bid for their work and the low bidder takes the job.

Q. Mr. Hogan, is it true that your greatest complaint against the estimate made by Mr. Allensworth is largely confined to the difference in price of labor and the amount of labor required?

A. The big difference is in labor performance; that is the number of units that they would complete per day.

Q. You have no serious complaint with his estimate as to the value of the materials that he used?

A. No, there is very little difference between Mr. Allensworth's material estimate and that turned in by the Bell Company and that turned in by me on the conduit; very little difference. They are very close together. I would say the difference between Mr. Allensworth's material costs and mine were less than $100,000.

Q. Well now, just as an example, in order to get it in here; Exhibit No. 1 relates to the laying of the conduits in trenches and so forth. On sheet No. 1 the greatest difference seems to be in excavating trenches; Mr. Allensworth's 24 cents and a fraction and yours is 90 cents; and [fol. 5075] in supervision Mr. Allensworth's is 6 cents and

yours is 39 cents. Incidental expenses Mr. Allensworth's is 5 cents and yours is 28 cents. On sheet No. 2, excavating trenches, Mr. Allensworth's is 24 plus and yours is 83; and for supervision Mr. Allensworth's is 6 and yours is 42. Incidental expense Mr. Allensworth's 5 and yours 30.

On sheet No. 3, Mr. Allensworth's for supervision 4 cents and yours 27 cents. Incidental expenses Mr. Allensworth's is 3 and yours is 19, and so it runs through that on those particular items which I have enumerated you are considerably in excess of his. Now, that constitutes the main difference between you, does it?

A. Yes, sir.

Q. Those items. Now, on sheet 9 of Exhibit 1, you have an item of duct shields. Mr. Allensworth's is 57 cents and you are $2.31. That is a material —, isn't it?

A. Yes, sir. You see the duct shield——

Q. Quite a good deal apart there.

A. But it is a very small item in the total material cost.

By Mr. Burr:

Q. Explain it, will you please, to the Commission.

A. The duct shields in this particular case, I took the average manhole and the average size of conduit, the average size of conduit is 7 duct; and I assumed a duct shield for each one of those 7 ducts in both directions, making a total of 14 duct shields for the manhole.

By Commissioner Geiger:

Q. Well, Mr. Allensworth makes no allowance for sheathing as you have set it out in sheet No. 9 of Exhibit 1; you have $7.50.

A. Yes, sir.

Q. Now, would that be reasonable—what is sheathing?

[fol. 5076] A. I had some photographs on sheathing, Mr. Burr.

Mr. Burr: Yes.

The Witness: You see extending——

By Commissioner Geiger:

Q. Well, let me see what it is; don't get it too long in the record. I think I know what it is.

Q. Now, you have charged that sheathing up to each manhole at the rate of $7.50?

A. Yes, sir.

Q. Is that for placing the sheathing or for the sheathing itself?

A. The sheathing lumber for a manhole would cost about $30, and after you use it about three times it is done for. That is you lose about a third of the sheet-ing in driving it and pulling it.

Q. Well then, you use $30 worth of material three times?

A. For three manholes, and I took one-third of it. That is our experience in it is that sheet-ing——

Q. Well, you took one-fourth, if it is $30; you have got it $7.50.

A. Well, the explanation for that, I believe, is in the number four.

Q. All right. Your position is that sheet-ing cannot be used on the average more than for four manholes?

A. Three or four manholes, something like that.

Q. You also have an item which he has omitted of a ladder, 7 feet, $3.10. I presume that is a steel ladder?

A. Galvanized——

Q. It is left permanently in each manhole?

A. That is right.

Q. Do you know whether all your manholes now have iron ladders in them?

A. I have been in a good many hundred manholes in Ohio and they all had them; and the Ohio people tell me [fol. 5077] that is their practice to put them in every hole.

Q. And they cost about that amount?

A. Yes, sir.

Commissioner Geiger: Mr. Allensworth omitted them entirely.

Mr. Herbert: I have one other question to ask.

By Mr. Herbert:

Q. Where is the office of the P. V. Cushing Company in Cleveland?

A. 937 Winton Hotel.

Q. That is where you live; is that correct?

A. I live in a room about three or four doors away from that.

Q. And that is the only office you have there in Cleveland?

A. Yes, sir.

Q. Do you have any other office in the state?

A. No, sir.
Q. Where is the office of the Ryan Company?
A. 6517 Newgard Avenue, Chicago.
Q. Is that a residence?
A. That is a residence, yes, sir.
Q. Whose residence?
A. Mr. Ryan's.

Mr. Herbert: That is all.
Mr. Burr: That is all for the present.

By Commissioner Geiger:

Q. I will ask one more question and then I will be satisfied. You have testified that there is required expenditure of a certain amount of money under your estimate to replace the structures of the Bell Telephone Company; have you any information, or could you give me any idea as to how much better the reconstructed system would be than that which existed in June 1925?

A. I didn't make any check of their plant to determine per cent. condition.

Q. But your testimony relates to a first-class high grade job made under conditions as existed in 1925?

A. Yes, sir, to reproduce it——

[fol. 5078] Q. Without reference to the kind of construction it replaced?

A. No, it is based on replacing with the same kind of construction.

Q. I know; but would or would not the construction, when completed under your estimate, be better than the construction that is now in and which existed in 1925? It might be the same character but would it be better?

A. I have some doubts that it would be any better; because the tile, it is just a case of plastering the joints and putting the concrete protection about it. The backfill would be the same.

Q. To make the new job would not be any better than the old job that has been in for a number of years?

A. Not unless they redesigned it.

Q. You wouldn't allow anything for depreciation?

A. Well, I haven't taken—that is in another part of the appraisal, I believe.

Commissioner Geiger: All right.

By Chairman McCulloch:

Q. You are just reconstructing it new?

A. Reconstructing it new, yes, sir.

Chairman McCulloch: Well, I assume there will be some kind of an exhibit showing how you depreciated it; you haven't reached that point yet, I understand?

Mr. Burr: There is a large amount of testimony on that subject in the record already.

Chairman McCulloch: Of course, he hasn't attempted to do that yet.

Mr. Burr: Neither did Mr. Allensworth at any point.

Chairman McCulloch: The present value would probably have to show depreciation.

[fol. 5079] Mr. Burr: Neither did Mr. Allensworth at any point.

Chairman McCulloch: The present value would probably have to show depreciation——

Mr. Burr: Yes. I might explain that the company's witnesses in chief placed their per cent condition on the property after giving their judgment as to reproduction cost new, and then they gave their judgment of the present condition.

Chairman McCulloch: Well, this witness hasn't attempted to do that.

The Witness: No, sir, and there is nothing for that in my costs.

By Commissioner Geiger:

Q. Well, you stated, I believe, that you would make your estimate of how much the various items to which you have testified would exceed in cost those given by Mr. Allensworth. You haven't put that in except as to the matters you testified to last week; you haven't done that with reference to what you testified to today. Are you prepared to do that now or will it come later?

A. I must have overlooked the fact that you were looking to me for that.

Q. Well, you gave it last week, I believe?

A. I gave it with reference to three items. I gave it with reference to the difference between Mr. Allensworth's figures and mine on conduit, on manholes and on paving over conduit and manholes.

By Mr. Burr:

Q. But you are to give it in respect to the other items later on.

A. Well, all right, I will do that. I didn't understand it that way.

Mr. Burr: That is all at this time.

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[fol. 5080] And also PHILIP HOGAN, resuming the stand, having been previously duly sworn, continued his testimony as follows:

Examined by Mr. Burr:

Q. During the progress of the last hearing, you testified in certain respects in which you believed Mr. Allensworth's outside plant cost for the property of the Ohio Bell Telephone Company as of June 30, 1925, to be too low, and at the close of the hearing, you testified to exhibits to that effect covering underground conduit, manholes and paving; have you also prepared an exhibit marked for identification Hogan Exhibit Number 8, Sections 1 to 12 inclusive, showing the extent to which the costs testified to by Mr. Allensworth for the following classes of property of the Ohio Bell Telephone Company involved in this case are lower than the costs which in your judgment would actually have been experienced in the reproduction of those classes of the Company's property as of June 30, 1925, namely, exchange pole lines, exchange aerial cable, exchange aerial wire, exchange underground cable, exchange submarine cable, toll pole lines, toll aerial cable, toll aerial wire, toll underground cable, toll submerged cable, and interior block wires?

A. Yes, sir.

Q. Do sections 1 to 11 inclusive in that exhibit, that is to say your Exhibit Number 8, apply respectively to the classes of plant just enumerated?

A. Yes, sir.

Q. Explain in general, if you please, the method followed by you in compiling those sections of your Exhibit Number 8?

[fol. 5081] A. In the heading of each of the early sheets, for example, Sheets 1 to 5 of Section 1, there is listed the particular kind and size of plant whose cost are listed, and compared on each said page. In the column 1, of each of

such sheets, is the item "Total material", for that purpose of these material costs of The Ohio Bell Telephone Company as used in its appraisal. Following that, I have listed the direct labor items necessary to the installation of the particular plant item in place.

Q. And then you have the total of direct labor items in the amount marked "Total Direct Labor", have you not?

A. Yes, sir.

Q. What about the other costs shown on those sheets?

A. Under the direct labor costs, I have listed the indirect labor costs, consisting of the supervision costs, incidental expenses and toll expenses, and in the last line, I have computed the total material and labor cost for the particular item.

Q. Starting with that explanation, what is shown in the next two columns of the sheets which we have been discussing?

Commissioner Geiger: Which ones have you in mind?

Mr. Burr: Sheet Number 1, Section Number 1.

The Witness: In the second column under the hearing "H. R. Allensworth", I have listed his costs for the corresponding material and labor items listed in the first column.

Q. And in the third column——

A. And in the third column, under my own name, I have put down the corresponding costs which in my judgment would have been experienced in the reproduction of the plant item listed at the top of the sheet as of June 30, 1925, [fol. 5082] using the telephone company's material costs.

Q. And what is represented by the difference between your figures and Mr. Allensworth's, taken in those sheets, of those costs?

A. By comparing my costs with Mr. Allensworth's, and deducting Mr. Allensworth's figures in the second column from my figures in the third column, we arrive at the sum which in my judgment based on my experience is the difference between Mr. Allensworth's costs to reproduce and my costs to reproduce the particular item of plant as of June 30, 1925.

Q. Yes; that involves a mere arithmetical calculation?

A. Yes, sir.

Q. Doesn't it?

A. Yes, sir.

Q. What per cent of the entire outside plant costs covered by your Exhibit is represented by these specific comparisons of unit costs as between you and Mr. Allensworth shown in the sheets of Sections 1 to 11 heretofore referred to?

A. About fifty per cent.

Q. Are sheets 1 to 5 inclusive of Exhibit 1 typical of the explanation which you have just made and does that explanation apply to all similar sheets contained in the other sections of your Exhibit 8?

A. Yes, sir.

Q. Following those sheets, have you prepared further sheets showing the extent to which the total costs for each item of plant therein enumerated of the Ohio Bell Telephone Company as of June 30, 1925, testified to by Mr. Allensworth in this case, are lower than the costs which in your judgment would have been experienced in the reproduction [fol. 5083] of those items of plant as of June 30, 1925?

A. Yes, sir.

Q. Will you briefly explain those pages——

Commissioner Geiger: Will you just let me get in at that time: Sheets 1 to 5 relate as I see to poles.

Mr. Burr: Yes.

Commissioner Geiger: Different size poles?

The Witness: That is in that first section 1 to 5, and the second section, the first sheet would relate——

Commissioner Geiger: Well, never mind, 1 to 5, is what we are after now. You start out with twenty-five foot, Class D cedar pole, and you have a total as given by him on Page 1 of $11.90, is that per pole?

The Witness: Yes, sir.

Commissioner Geiger: Per each pole. Yours is $21.54?

The Witness: Yes.

Commissioner Geiger: Per each pole.

Mr. Burr: In place, including labor and material?

The Witness: Yes, sir.

Commissioner Geiger: Now, on the second page, you have in reference to the poles, thirty feet, in which his price is sixteen dollars plus, and your price is twenty-six plus, is that correct?

The Witness: Yes, sir.

Commissioner Geiger: What constitutes the difference in the price of purchasing and setting the pole that is referred

to on Page 1 and Page 2, one being a twenty-five foot pole and one being a thirty foot pole; is there any other difference in the poles?

The Witness: The material price of the pole would be [fol. 5084] different, and——

Commissioner Geiger: Well, because of its extra five feet?

The Witness: Extra five feet——

Commissioner Geiger: And the difference because it is larger in body?

The Witness: It would be heavier to truck, heavier to handle; it would require a deeper hole than the twenty-five.

Commissioner Geiger: Well, do you think it would make the difference between your twenty-one dollars and twenty-six dollars, simply because it had a five foot more on top of it?

The Witness: Yes, sir.

Commissioner Geiger: And when you proceed to a thirty-five foot pole, it is $11.00 more in the plant complete?

The Witness: Yes, sir.

Commissioner Geiger: That difference constitutes such additional burden as would be caused by the addition of the extra number of feet—the larger pole?

The Witness: Yes, sir.

Commissioner Geiger: It costs more to begin with and more to handle it; is that the way you come to this? And the forty foot pole is $45.00; is that correct? Page 4? In other words, a forty-five foot pole according to your estimate costs $24.00 and a fraction more than a twenty-five foot pole—and over twice as much—is that correct?

The Witness: That is correct.

Commissioner Geiger: You might just give in your own way right there why there is a difference between these [fol. 5085] poles? It is only twenty foot difference in the pole. We concede it will cost more.

Q. Mr. Hogan, will you explain that to the Commission and go into it in some detail?

Commissioner Geiger: Not too much.

Mr. Burr: I call attention to the fact in passing, that in respect of Mr. Allensworth's difference, his costs for a forty-foot pole is $21.00 more than for a twenty-five foot pole; in other words, the differential between the two witnesses is not very great.

Q. Now, will you explain, Mr. Hogan.

Commissioner Geiger: Yes, Mr. Allensworth is almost three times as much to set a forty foot pole as it would to set a twenty-five foot pole—not quite three times—yours is about twice as much.

The Witness: I have set up on Section 12 in your book a detailed description of pole work on Page 5, or Sheet 5.

Chairman McCulloch: Section 12, Sheet 5.

Mr. Burr: Yes.

The Witness: That shows you the difference in labor costs for preparing poles. Now, there is another sheet here that shows the difference in labor costs for digging the holes and setting them.

Commissioner Geiger: As I have your Sheet 5, Section 12, it shows details in wage rate and performance cost of aerial construction—is that what you refer to?

The Witness: Yes, sir.

Commissioner Geiger: Oh, yes, I see; I have it.

The Witness: The poles are known as aerial construction. [fol. 5086] Mr. Burr: The Commission will note the difference between the weight, for example, of a twenty-foot pole, 190 pounds, and a forty-five pole is 950 pounds. Of course, that reflects on the cost of handling.

Commissioner Geiger: Well, that would depend upon the difference in the diameter of the pole more than the length; the length couldn't make that difference.

Mr. Burr: No, but the weight does; you see that reflects directly upon the number of men necessary to handle a pole, for instance.

Commissioner Geiger: Don't take this in the record.

* * * * * * *

Mr. Burr: What was the last question?

Q. (Previous question read.)

A. On Sheet Number 27 of the same section, we show the differences in weight, work distributing, locating and digging and setting.

Q. To what section do you refer?

A. Section 12, Sheet Number 27; that is for toll.

Q. Taking a twenty foot pole and a forty foot pole, will you give the Commission some idea of the different operations and the different number of men and the different

amount of labor necessary to handle those two poles and to set them in place?

A. Well, a twenty-five, thirty foot pole, six or seven men gang can handle readily; when you get up to forty, forty-five, fifty foot pole, you need a great many more men to lift them; of course, it sometimes takes as high as eight to ten men to raise them.

Q. Then what about the truck costs of handling poles in different lengths?

A. Well, your truck cost would be higher because you [fol. 5087] would truck fewer poles per load, and the labor of unloading them and handling them would be much greater than when hauling with the small hauls.

Q. And what about digging the hole, the size and depth?

A. The hole would be deeper and greater in diameter; there would be an extra expense there.

Q. Then of course there is a difference in the cost of material?

A. Yes, there would be a big difference in the cost of the material, too, a forty-five foot pole will cost very much more than a twenty-five foot pole.

Q. And your exhibit reflects your judgment as to the difference in those costs, does it not?

A. Yes, sir.

Commissioner Geiger: You have here some detail as to poles of the length of 115 feet; do you have many of those kind of poles?

The Witness: I believe that there was only one in the inventory, Mr. Geiger.

Commissioner Geiger: Is that a spliced pole?

The Witness: I think it is a spliced pole. There is one 107 foot in the appraisal.

Commissioner Geiger: Well, your appraisal shows the number of poles in each length, does it?

The Witness: Yes, sir.

Commissioner Geiger: Very well.

Q. Prior to the discussion, I think I had asked you whether following these sheets of which sheets numbers 1 to 5 of Section 1 are typical? You have prepared further sheets showing the extent to which the total costs for each item of plant therein enumerated, of the Ohio Bell Tele- [fol. 5088] phone Company as of June 30, 1925, as testified

to by Mr. Allensworth in this case are lower than the cost which in your judgment would actually have been experienced in the reproduction of those items of plant as of June 30, 1925.

A. Yes, sir.

Q. Will you explain those pages to the Commission?

A. Under the head of each page is shown the class of plant; these are compared in the succeeding lines of the sheet. In the first column is shown size and class or kind of the outside plant involved covered by the comparison. In the second column, under the heading of "H. R. Allensworth", I have listed Mr. Allensworth's total labor and material costs, for the corresponding size and class or kind of items shown in the first column.

In the third column, I have put down the corresponding total labor and material costs which in my judgment would have been experienced in the reproduction of that part of the company's property as of June 30, 1925, using the telephone company's material costs.

Q. Is Sheet Number 6 of Section Number 1 of your Exhibit 8 typical of the explanation which you have just made and does that explanation apply to all similar sheets contained in the other sections of your Exhibit Number 8?

A. Yes, sir.

Q. Will you explain to the Commission the remaining sheets of Section Number 1 to 11 inclusive of your Exhibit Number 8 which follow the comparison sheets of detail unit costs just referred to?

A. Those remaining sheets of each section show the detail labor and material costs upon which my costs shown in the preceding sheets of each section are based.

[fol. 5089] Q. Do those remaining sheets also show your judgment of the correct details of labor reproduction cost for the classes, kinds and sizes of property of the Ohio Bell Telephone Company therein enumerated as of June 30, 1925.

A. Yes, sir.

Q. And did you arrive at the labor costs applied by you in sections 1 to 11 inclusive to represent as I understand it in your judgment, costs necessary to reproducing the various classes, kinds and sizes of outsize plant of the telephone company therein enumerated as of June 30, 1925?

A. By reference to Section Number 12 of my Exhibit Number 8, the Commission will find the details of the wage

rates, performance and organization set-ups which in my judgment would have been experienced as of June 30th, 1925, in the reproduction of the various classes of outside plant enumerated in those pages; also the gang set-ups representing my judgment of the proper gangs to be used for the reproduction of the various classes of plant.

Commissioner Geiger: On what pages are those found?

Mr. Burr: Section 12.

The Witness: It starts right off with the first page, shows the gang set-up.

Commissioner Geiger: All right, thank you.

Q. Just by way of illustration, Mr. Hogan—and if counsel will permit me to lead the witness a little—please refer to Section Number 12, Sheet 1, in the righthand column you show $46.00 as the total wage of your construction crew for exchange aerial construction, and that amount is $46.70, isn't it?

A. That is for an eight hour day.

Q. Eight hour day.

[fol. 5090] A. That is the total cost of the gang for direct labor for the eight hour day.

Right now, dividing that amount by eight hours, it gives $5.837 as the average day rate per man, does it not?

A. That is correct, yes, sir.

Q. And that average day rate is shown on that page opposite the words "Average day rate per man"?

A. That is correct.

Q. Following that you have the average hour rate per man and that equals 72.9 cents, does it not?

A. Yes, sir.

Q. How did you arrive at that amount?

A. By dividing the average daily rate by eight hours per day.

Q. Now then, under that 72.9 cents there appears the figure 7.2 cents, which as I understand it, represents the proportion of direct labor costs of the general foreman, the division supervisor, the supervisors' salaries, their office force, and their office expense?

A. Yes, sir.

Q. And the sum of those two figures makes 80.1 cents?

A. That would be the average hourly rate including that part of the force which directs the labor up to and including the general foreman.

Q. Yes, and that figure is the final figure shown in the righthand column on that Sheet Number 1, isn't it?

A. Yes, sir.

Commissioner Geiger: Well, no, you have the red ink column.

Mr. Burr: I beg pardon?

Commissioner Geiger: You have two ton truck, less a driver, $14.00 per day.

Mr. Burr: Yes; I was not counting the $14.00 as being in [fol. 5091] that column, but Your Honor if that is included as a part of the righthand column on that page.

Commissioner Geiger: What is that $14.00 per day per truck? You don't have the driver there; is that for the truck alone?

The Witness: Two and a half ton truck, yes, sir. They usually are worked on this kind. The foreman drives the truck or one of the linemen drives the truck.

Commissioner Geiger: How do you figure it costs you $14.00 a day for the truck?

The Witness: Well, a two and a half—the commercial rate on two and one-half ton truck with a driver is $2.50 an hour; or $20.00 a day for an eight hour day. The drivers get about $6.00 a day and that would leave the truck without a driver at $14.00 per day; that is for an eight hour day.

Commissioner Geiger: And how much does that two and one half ton truck cost?

The Witness: Well, they have various prices on them.

Commissioner Geiger: Well, just a moderate one.

The Witness: I say a good make of two and a half ton truck will cost you between thirty-five hundred and forty-five hundred dollars.

Commissioner Geiger: As much as that?

The Witness: Yes, sir.

Commissioner Geiger: What does the depreciation amount to?

The Witness: Why, some people charge off their trucks at the rate of about twenty-five per cent depreciation a year; I think that is pretty general practice and usually [fol. 5092] accepted by the income tax commissions as a fair depreciation rate in which to use?

Commissioner Geiger: Twenty-five per cent, $4000.00 truck; then at the end of four years, it would be obsolete?

The Witness: Yes, sir.

Commissioner Geiger: That is a thousand dollars a year; the $14.00 on it you charge for 300 days, do you; about $4200.00. All right.

(No response.)

Q. Does the $14.00 include repairs also?
A. The $14.00 is what you would pay to hire the truck.
Q. And the owner of the truck would keep up the repairs?
A. He would keep up the repairs and furnish gas and oil.

Commissioner Geiger: Tires?
The Witness: And tires and everything else.

Q. Well, on the exhibit of the 80.1 cents per hour, being the hourly rate on exchange pole work, line work and aerial cable work; am I correct in saying that in your exhibit Number 8, Section 3, Sheet Number 1, the $8.811 is arrived at by multiplying the aerial rate per man of 80.1 cents by 11, the latter figure being the man hours per mile of wire shown at Page 7 of Section 12?
A. I didn't get that section marked, Mr. Burr.
Q. I first referred to Section Number 3, Sheet Number 1.
A. 3, Sheet Number 1.
Q. Yes.
A. I have it.
Q. Now then, I asked you whether the item of $8.811 is not arrived at by multiplying the hourly rate per man of 80.1 cents shown at Page 1 of Section 2, by 11, the latter [fol. 5093] being the man hours per mile of wire shown at Page 7 of Section 12.
A. What you mean is that I use that hourly rate times that number of hours taken to set a pole or to string a mile of wire and get that labor of unloading and erecting pole shown in the third column on Sheet 1, Section 3.
Q. Right.
A. Yes, sir.
Q. And that computation is typical of your other computations contained in Exhibit 8?
A. Yes, sir. They are all set up that way, and from the labor details shown in Section 12.
Q. Is any other explanation necessary in connection with the data set forth in Exhibit 8?
A. I believe that the information contained in it is sufficient to speak for itself, Mr. Burr.

Q. And if the Commission desire- any further information on the subject, we will be glad to give it?

A. Yes, sir.

Q. To the best of your knowledge and belief, does Exhibit Number 8 in its entirety correctly and accurately reflect the information which it purports to contain, including the costs necessary to reproduce, as of June 30, 1925, the kinds and classes and items of property of the Ohio Bell Telephone Company therein numerated?

A. Yes, sir.

Q. Have you prepared an exhibit which applied to the inventory, quantities shown in the inventory of the Ohio Bell Telephone Company as of June 30, 1925, gives effect to the costs covered by your Exhibit Number 8?

A. Yes; it is marked for identification Hogan Exhibit Number 9.

Q. Will you explain briefly Page 1 of your Exhibit Number 9?

A. For the purpose of comparison with Mr. Allensworth's [fol. 5094] costs, I have set forth on that page my judgment of the reproduction cost new as of June 30, 1925, of the several classes of plant of the Ohio Bell Telephone Company shown on that sheet.

Q. What of the remaining sheets in your Exhibit Number 9?

A. By applying the costs shown of the several sections of my Exhibit Number 8, as between the total unit costs comparison to the articles of corresponding items shown on the Ohio Bell Telephone inventory, as of June 30, 1925, and filed in this case, I have shown my judgment of the reproduction cost new as of June 30, 1925, for each classification of that plant, excepting underground conduit, manholes and paving.

Q. Following the suggestion of the Commission, have you prepared an exhibit marked Hogan Exhibit Number 10 consisting of two pages and showing for each outside plant account in its entirety Mr. Allensworth's reproduction cost new as of June 30, 1925, on the one hand, and your judgment of the correct reproduction cost new for the corresponding amount on the other hand divided so as to make comparison not only between the total cost, but also a com-

parison as between the total labor cost and total material cost for each account?

A. Yes, sir.

Q. What does Sheet Number 2 of your Exhibit Number 10 show?

A. It shows Mr. Allensworth's total labor cost for each account as of June 30, 1925, and my judgment of the correct total labor cost of the corresponding account as of that date, and the percentage by which in my judgment, Mr. Allensworth's total labor cost is too low for each of the [fol. 5095] accounts.

Mr. Burr: We offer in evidence Exhibits 8, 9 and 10.

Chairman McCulloch: Without objection, they are admitted.

And thereupon the exhibits so last above offered are introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and are herewith submitted marked Hogan Exhibit 8, Hogan Exhibit 9, and Hogan Exhibit 10 and made a part hereof.

Q. In the details of your toll labor cost shown in your Exhibit Number 8, have you made provision for the necessary board and lodging and expense of your toll construction crews?

A. Yes, sir.

Q. Where is it shown; isn't it detailed in Section 12 of your Exhibit Number 8?

A. Yes, sir, that is shown in the "total line organization"—let's see, I will get the page.

Q. Have you answered the last question?

A. As shown on Page 25 in Section 12 of Exhibit 8; I show the wage paid toll line men and the Board and lodging allowance for toll line men.

Q. That is $3.00 per day for board and lodging, isn't it?

A. That is right.

Commissioner Geiger: On what page is that?

The Witness: That is page 25.

Mr. Burr: Page 25, Section 12 of Exhibit 8.

Commissioner Geiger: In making the estimate of that sort, how many days do you have the men work—five and [fol. 5096] one half days?

The Witness: Five one-half per week.

Commissioner Geiger: Yes.

The Witness: No, sir, they work six days per week if weather permits.

Commissioner Geiger: And you charge him the board and lodging for the full seven days?

The Witness: For the full seven days, yes, sir.

Q. Why is that?

A. The men being paid both their board and lodging has to be paid for the full month, while their daily rate is based on twenty-five or twenty-six working days in the month, whichever it happens to be.

Q. But you have to pay them for Sundays, because they are away from home?

A. You have to pay their board and lodging for Sundays.

Q. And that is the reason?

A. Yes, sir.

Q. Does your general expense, shown through your Exhibit Number 8 include what is known as stable and garage expense?

A. Yes, sir.

Mr. Burr: You may cross-examine.

Cross-examination.

By Mr. Calland:

Q. Mr. Hogan, on Page 3674 of the record, you stated that you had spent some six months observing operations and performance of soil and sub-surface obstructions to be encountered in constructing underground conduits in the Cities of Columbus, Springfield, Dayton, Toledo, Cleve-[fol. 5097] land, Akron and Youngstown; of what company or companies' construction were you observing during that period?

A. The work was mostly Ohio Bell Telephone Company.

Q. You say mostly?

A. Yes, sir.

Q. Wasn't it all?

A. No, sir, I observed excavations and construction work of other companies.

Q. Telephone company?

A. No, sir.

Q. I asked for telephone companies; I mean, of course, telephone companies whether I included that or not?

A. I beg your pardon, I observed some electric light excavations in public work.

Q. Now, at Page 3674, and five and eight of the record, you discuss at some length the difficulties encountered in building conduit. Among other things, you mentioned the matter of obstructions encountered and among the obstructions mentioned, telephone conduits. Will you tell the Commission just whose telephone conduit you would encounter if you were reproducing the property of the Ohio Bell Telephone Company in Ohio?

A. Whose?

Q. Whose telephone conduits you would encounter if you were reproducing the property of the Ohio Bell Telephone Company in Ohio?

A. I don't think I quite get that question, Mr. Calland.

Q. Read the question.

(Previous questions read.)

A. That is whose telephone conduits? I don't know whether you have any competing companies in Ohio or not.

Q. Well, you made an appraisal of this company's property, didn't you?

A. Yes, sir.

Q. You know something about their property and where [fol. 5098] it is located, don't you?

A. Quite a little, yes, sir.

Q. Well, where are the telephone conduits that you would encounter just mentioned?

A. (No response.)

Q. If you know; if your answer is "Don't know", let it go at that.

A. Will you kindly read my statement as of that date, Mr. Calland?

Q. Yes, sir.

Commissioner Geiger: I think that is hardly necessary, if it has been in.

Q. Yes, 3674.

Commissioner Geiger: What he wants to know in constructing the Bell Telephone Company, would there be any other company's conduits that would prevent you from putting down the Bell Telephone conduits?

The Witness: I would have to answer, I don't know, Mr. Calland.

Q. You also mentioned electric light conduits in the same answer; tell the Commission where the Ohio Bell Telephone Company ever encountered electric light conduit in the construction of its underground system as of June 30, 1925?

Mr. Burr: I object to that; I don't think the question is quite fair, where it did encounter.

Chairman McCulloch: Well, we are reproducing.

Mr. Burr: Yes, that is quite different, Your Honor.

Mr. Calland: Read the question.

(Previous question read.)

Q. As it existed June 30, 1925, if I may amend it to that extent.

Mr. Burr: I do not think the question is proper—where it did encounter. The question is——

[fol. 5099] Commissioner Klinger: You mean where it did encounter or where it would encounter?

Mr. Calland: Whether it ever encountered any in building this telephone plant; that is what we want to know; he says that is one of the things to be encountered by adding cost here.

Chairman McCulloch: Objection overruled.

Mr. Burr: Exception.

The Witness: You want me to say that I had seen some of these in 1925, Mr. Calland?

Q. Either that, or you don't know.

A. I wasn't here in 1925.

Q. Well, then, is your answer that you do not know whether it did or not?

A. My answer would be to that *that* I don't know whether they encountered any in 1925 or not.

Commissioner Geiger: He probably wants to know this, if you don't know that they would have encountered any such obstruction, on what basis or ground did you put an increased cost in for taking care of such obstructions in your estimates of the reproduction values?

The Witness: I had constructed conduit in Ohio in 1927 and '28 and I take it that the same obstructions that were there in 1927 and 1928, were there in 1925—I take it that the rock that was encountered in 1927 and the sand——

Q. Now, just a moment; we are not talking about rock and sand; we are talking about these obstructions that you

mentioned in Page 3678—telephone conduits and electric light conduits.

Mr. Burr: All right, let him answer it.

[fol. 5100] Mr. Calland: I want it responsive to the question.

The Witness: Oh, I take it that sewers, electric light conduit, Western Union pneumatic tubes and so on—all of those things that I mentioned—were there in 1925.

Q. You just take it that they were?

A. Yes, sir.

Q. You don't know whether——

A. I didn't see them in 1925.

Q. And before that time——

A. I didn't see them before that time.

Commissioner Geiger: In what city of Ohio does the Western Union have pneumatic tubes?

Mr. Calland: I was coming to that.

The Witness: I don't think that I testified that they did have any, Your Honor. I testified that in large cities, these are some of the things to be encountered in building conduit.

Q. The Commission is asking you where?

A. I say I don't know.

Q. Well, the same question now as to police and fire alarm telegraph conduits which you mentioned on Page 3678; where are they?

A. As of 1925?

Q. Sure, that is the date of this appraisal?

A. I will have to tell you that I was not here in 1925, and I can not testify to anything that happened in 1925.

Q. Well, did you make any effort to find out about it when you made these figures?

A. As to what was in the ground at that time?

Q. Yes.

A. I saw a great deal of the sub-surface conditions exposed during 1927 and 1928.

[fol. 5101] Q. Where?

A. In Columbus, Springfield, Dayton, Toledo, Akron, Youngstown, Cleveland.

Q. Well, now, tell us; you say you saw sub-surface conditions exposed—what in—conduit trench?

A. Not only telephone conduit trench; in sewer trench, electric light trench and gas trench.

Q. Of course, we are not talking about sewer trench; that is a little different situation from telephone trench?

A. Why, the spur sewers are not a great deal different, Mr. Calland.

Q. A difference in the depth they go under the ground, and something like that?

A. Sometimes they come fairly close to the surface.

Q. Well, now, tell us in which one of these cities that you have mentioned you saw police and fire alarm telegraph conduit exposed in the construction of telephone conduit?

A. In 1925?

Q. Or '27 or '28, or any other time that you saw?

A. I saw the fire alarm conduit built in 1928 in Toledo.

Q. Well, did it encounter the telephone conduit while that was being built?

A. Fire alarm?

Q. Yes, what I am asking you is, where in these cities you saw police and fire alarm telegraph and telephone conduit in conflict with each other—that is the question; let us have the facts.

A. There is very little conduit built in any of these cities that you do not have to divert your conduit now for these——

Q. I am asking you now just for—read the question—either you know or you don't; if you don't know, say so, [fol. 5102] and we will pass to the next question.

A. I was not here in 1925, and the work that I did in 1927 and 1928, I recall encountering other conduits and other structures from practically every——

Q. I am asking——

Mr. Burr: Wait a minute.

Q. (Continuing:) About police and fire alarm telegraph; —About police and fire alarm telegraph is all, but he wasn't answering at all.

Mr. Burr: I don't think there is any reason to get excited over this.

Mr. Calland: Well, I am only sticking to the answer to the question.

Mr. Burr: The witness has a right to answer the question.

Mr. Calland: Certainly, my questions, yes.

Mr. Burr: I think he is trying to, Mr. Calland.

Mr. Calland: Well, I am asking about police and fire alarm telegraph; let us have that and then we will pass to another.

Chairman McCulloch: Confine your answer to the question and then go ahead.

The Witness: I have encountered telegraph in Cleveland —I can't give you the exact location.

Q. Police and fire alarm telegraph, you mean, now?

A. No, I mean telegraph.

Q. Well, I am talking about police and fire alarm telegraph, Mr. Hogan, only that; let us settle that first.

Mr. Burr: He told you one in Toledo.

Mr. Calland: No, he didn't—he hasn't yet.

[fol. 5103] The Witness: I told you I saw a fire alarm conduit——

Q. Oh, yes, fire alarm conduit in Toledo, that may be, but I am asking you where you saw it in conflict with telephone conduit?

A. You mean—what do you mean by "in conflict"?

Q. Well, where you would have to encounter it in building a telephone conduit.

A. Where you would have to divert your subway in construction.

Q. If you would do it, yes, but where did you ever see it meet?

Mr. Burr: Of course, they would not meet, because that would be a silly way to construct a property.

Mr. Calland: That is what we are trying to prove.

Mr. Burr: Why, of course, they would not be, but they would be constructed in such a way as to avoid a collision.

Mr. Calland: If the witness is content with that answer I am content to pass on.

Commissioner Geiger: Let me ask one question; do you know of any city in Ohio with police—what is that?

Chairman McCulloch: Fire alarm.

Commissioner Geiger: Fire alarm that is put in an underground conduit.

The Witness: In Toledo, yes, sir.

Commissioner Geiger: In Toledo?

The Witness: Yes, sir.

Commissioner Geiger: Well, don't they usually simply take one of the chambers of the underground conduit of the telephone company and use that for their wires?

The Witness: That is the practice in a great many large cities.

[fol. 5104] Commissioner Geiger: Well, then, they would simply be a part of the underground condnit of the telephone plant.

The Witness: Yes, but this one in Toledo is——

Commissioner Geiger: Well, you don't know of it anywhere else in Ohio except Toledo?

The Witness: That is the only case I know of.

Q. When was that Toledo built?

A. 1928.

Chairman McCulloch: Does counsel insist upon an answer to his question?

Mr. Calland: No, I am satisfied.

Chairman McCulloch: Proceed. As I understand, you do not know of any instance where there was a direct conflict?

The Witness: No, sir.

Chairman McCulloch: All right, go ahead.

Q. I would like to have you tell us the same question as specifically as you can about sewers?

A. Yes, sir, I have seen sewers in 1927 and '28 that had to be shifted.

Q. You mean the sewers had to be shifted?

A. Yes, sir.

Q. For what purpose?

A. To clear a line for the telephone conduit.

Q. Where?

A. In Shaker Heights, Moreland Boulevard.

Q. That is Cleveland, isn't it; that is part of the village system?

A. It is the Village of Shaker Heights, I think it is under village form of government.

Q. How long has the Shaker Heights addition been in existence in Cleveland?

A. As a village?

Q. Yes; how old is it?

A. I don't know.

Q. You mentioned in this same connection, the matter, Mr. Hogan, of the work being delayed and thereby adding [fol. 5105] additional cost because you had to have conferences with city authorities, and having been held up in the meantime, now, can you give us some specific instances of that which would affect the construction of the Ohio Bell Telephone Company's property on June 30, 1925?

A. If you confine that to June 30, 1925,——

Q. That is when this appraisement was made?

A. I will have to say, "No", Mr. Calland, because I was not in Ohio in 1925.

Q. Well, you are making an appraisal of this property as of 1925?

A. Yes, sir.

Q. And attempting to tell the Commission what items might produce additional cost?

A. Yes, sir.

Q. And this is one?

A. Yes, sir.

Q. I just wondered if you had any specific instances at all that you can indicate when that happened?

A. Outside of '25?

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[fol. 5106] The Witness: On a job down in Springfield, Ohio, crews moved in in January, 1928. The job was held up for a week or two for conferences between the telephone company and the city officials. The city officials were requiring a bond to be put up before the streets could be opened. They required a cutback of six inches on both sides of the trench; they required steel reinforcing rods to be used in the concrete base; they required on a dirt road that six inches of gravel be placed on the top of the trench; they required that the trench be back filled with gravel where it was inside of the sidewalk. They objected to the use of a trencher on the job. They would not permit the pouring of concrete for manholes when the temperature was below twenty-five degrees above zero. This is for [fol. 5107] Springfield.

Q. Well, now, let me ask a question right there, Mr. Hogan, in your appraisal of this underground conduit you have added twenty-five per cent for supervision and I have not looked at it yet, but I assume you have a charge

for enginering and general supervision on top of that; now what were those fellows doing when this job was planned for Springfield?

A. I don't understand your question, that is what relation it has to——

Q. Well, read the question——

A. (Contiuning:) It has to supervision.

Q. Read the question to him; let him answer it.

(Previous question read.)

A. I have no general engineering or general superintendence in my appraisal——

Q. But you have them in this general appraisal of the Ohio Bell Telephone Company?

A. I have not in mine, Mr. Calland, and I don't know what is in anybody's else appraisal excepting my own.

Q. You made this appraisal?

A. I have made this appraisal.

Q. Haven't you twenty-five per cent for supervision of underground conduit in yours?

A. Yes, sir, that is right.

Q. And don't you also figure on a charge for engineering on this work?

A. It is not in there, the general engineering and general superintendence is not in there.

Q. Where is it?

A. I don't know.

Q. You haven't made any estimate of that?

A. I have not made any estimate of that.

Q. I see; I have not examined this latter exhibit to see [fol. 5108] how far it goes, but you are limited then to your twenty-five per cent of supervision?

A. I have my conduit on there.

Q. You have twenty-five per cent supervision for conduit, haven't you?

A. Yes, sir.

Q. Now, tell me, does not that twenty-five per cent charge when you meet a situation like that, might be, of holding your crew up for three weeks in Springfield for conference to determine how this work was going to be done, meet that?

A. You will have to get the Ohio Bell Telephone Company to explain that for you.

Q. All right——

A. That is, I was in the capacity of being with the contracting company and had no part in any of the conferences.

Q. How big a job was that?

A. Sir?

Q. How big a job was that in Springfield?

A. I think it was about eight miles of conduit.

Chairman McCulloch: Let me ask this question: If there were proper superintendence in a situation such as you described, it ordinarily would not occur, would it?

The Witness: Well, that is pretty hard to tell. I have another case here of the City of East Cleveland and if you will permit me to read it, you can judge for yourselves, as to how much can be done with superintendence in case of this kind. Here is the City of East Cleveland refuses a permit to build telephone conduit on Shaw Avenue until there is a contract made or an agreement made between the telephone company, the Ohio Bell Telephone Company and the City of East Cleveland. Here is part of the agreement:

[fol. 5109] "Permission is hereby granted to lay that portion of the underground conduit covered by your request 2-R-3 of November 20, 1928, contained on Sheets 2 to 9 inclusive, and lying on the southern side of Shaw Avenue between the westerly city limits and Euclid Avenue."

Commissioner Geiger: Just a minute. Now, why does that have to go in the record?

Mr. Calland: I am not interested in that unless the Commission is; I do not see that it has any reference——

Commissioner Geiger: Put it in as an exhibit.

Chairman McCulloch: As an explanation, I just asked him whether or not ordinarily superintendence of a proper kind would not eliminate the delay he mentioned at Springfield.

The Witness: Well, I thought I might bring this—make it clearer.

Commissioner Geiger: Well, that would not be competent evidence, you know, because you would have to go back and see who wrote that newspaper article or whatever it is.

The Witness: Here, it is an agreement between the City of East Cleveland and the Ohio Bell Telephone Company.

Q. Did you handle this job?

A. Yes, sir, that is the company I am with had this job and we were held up for several weeks, getting started, because of the requirement of the City of East Cleveland in this particular case.

Q. And you had your material all on the job, and ready to go and none of these things had been settled at all?

A. Why, in this particular case, in Cleveland, we didn't have word to go ahead yet although we were ready to go ahead.

Q. Well then, the delay—what were you doing in the [fol.5110] meantime?

A. Sir?

Q. What were you doing in the meantime; were you waiting on this job to start?

A. Our gange, they were on another job.

Q. They were not being paid on this job while waiting?

A. Not on this particular job, no, sir.

Q. That has nothing to do with the question, then?

A. Oh, it has——

Mr. Burr: Answer the commissioner if you can, the Chairman, Mr. Hogan, if you can, without reading the agreement.

The Witness: Well, I will just read it as follows, now, what the requirements were. So as——

Commissioner Geiger: Does that mean the same requirements we are going to have in reconstructing in the State of Ohio?

The Witness: No, sir, but it will give you a pretty good idea of what the City requirements are these days.

Mr. Calland: Well, of course, if the Commission please, in this case, he is trying to tell about just one impossible case, that it caused nobody any loss; what I am asking for is a case where this additional cost was incurred because of these delays after the expense of the thing started.

Chairman McCulloch: In this case, probably the superintendence did prevent the loss because the men were being employed at another place.

Mr. Calland: Some place.

Chairman McCulloch: That is not the point I am asking about at all. I simply asked if the superintendence which [fol. 5111] you charged into the account is proper, you are

not going to likely have the delays that you mentioned at Springfield; isn't that it?

The Witness: This is a case where there was a great deal of extra cost thrown into the job, Your Honor.

Q. Well, it was supervision cost, wasn't it?

A. Sir?

Q. It was supervision cost, wasn't it?

A. This is a case where there was extra cost thrown into the job because of city requirements.

Q. Well, in the case of this delay, this delay did not cause anything but supervision cost, did it; your men were working some place else?

A. The delay did not cost the company I am connect- with, anything.

Q. Well, that is enough.

A. And in this particular case here——

Mr. Herbert: There is no question asked now.

The Witness: Sir?

Mr. Herbert: There is no question asked now.

The Witness: I am still trying to read the city requirements for the information——

Mr. Calland: I am not interested in that. I am perfectly willing to let the Commission listen to them if they want to.

Chairman McCulloch: I do not think they have any bearing upon this question I asked you. If you think they have, and you want to explain, we do not want to prevent you from explaining.

The Witness: Well, I am being cross-examined on that [fol. 5112] particular item that I have read for certain delays and requirements of city authorities, and I think I ought to tell some of this, that is, to convince you folks that I didn't just take it out of the air or didn't imagine it.

Mr. Calland: We haven't any concrete cases yet; so far it is out of the air.

Mr. Burr: Let him go ahead then with his answer.

The Witness: "It is understood that this work shall be done subject to the following requirements, and that the attached agreement providing for a five year guarantee of sidewalks, pavements and other improvements, and for saving the city harmless for any and all damage suits during the course of construction, and until the final replacement of sidewalks, driveways and other improvements is made,

it shall be signed and filed with the city manager of East Cleveland.

"Separate street opening permits shall be obtained for each street opening, and construction on street openings shall be conducted in such a manner that the intersection will be open at all times for at least one line of traffic. The entire backfill under pavements and for a distance of five feet on either side thereof, shall be of thoroughly compacted sand. Concrete base replaced over the ditch shall be laid in conformity with the East Cleveland paving specifications, and shall be a minimum of eight inches in thickness and in no case shall the thickness be less than the existing pavement base. Brick surfacing and asphalt surfacing shall be replaced by the City of East Cleveland. If weather conditions are such that in the opinion of the East Cleveland Engineer, surfacing can not be replaced for a period of several months, the Ohio Bell Telephone Com-[fol. 5113] pany, if so requested, shall place a one inch soft cushion on the concrete base and a temporary surfacing of concrete of the necessary thickness to bring the patch up to grade.

"Tunnelling of pavements, curbs, walks, driveways, or any other improvements, will not be permitted except by special consent of the city engineer."

Then they require that the construction start at a certain point which was at neither end:

"The construction shall be started at Hayden Avenue and proceed eastward to Euclid, returning to the section from the city limits to Hayden Avenue when this first section is completed. As the construction proceeds, the streets and sidewalks shall be repaired as rapidly as possible. Temporary walks furnishing a dry, safe thoroughfare shall at all times be provided for pedestrians; temporary bridges for property-owners shall be provided if necessary to permit the use thereof.

"The city reserves the right if such appears to be necessary for the safety of the school children to station an officer at the construction, to control traffic, and the cost of his services shall be charged as inspection, to the Ohio Bell Telephone Company.

"Permission is granted to relay only such flagstones as are a minimum of three feet in length and of two and one

half inches in thickness and are thoroughly sound flags in every respect; any flags now existing which are checked, broken, pitted or otherwise, in the opinion of the engineer, of doubtful soundness, shall be removed and replaced with new flagging by the Ohio Bell Telephone Company.

"All flags shall be laid on a tamped cinder sub-base not less than three inches in thickness. It is understood that [fol. 5114] where concrete walks now exist and are removed for the construction of the duct, the Ohio Bell Telephone Company will purchase and replace new stone sidewalks, also laid on a sub-base of cinders as above specified."

Commissioner Geiger: How much more of that is there?

The Witness: Well, there is not much more.

Commissioner Geiger: Well then, skip pretty fast. You are costing the State of Ohio money to put it in the record there and it will be all transcribed and nobody is going to read it anyway.

Mr. Calland: And I have yet to hear, Mr. Hogan, of this crew waiting for a conference with city authorities after the work started; that is what this question started all about.

The Witness: On this duct——

Commissioner Geiger: Let me ask just one question, there. Did you take that contract which you have, which is also in the City of East Cleveland, as the basis for your estimate that it would happen all over the State of Ohio.

The Witness: No, sir.

Commissioner Geiger: For the reproduction of the one on——

The Witness: No, sir, I took my experience for the last fifteen years with city officials, not only in Ohio, but in other states and in this particular case, Mr. Calland, I may say this, that on this same job, there was a hold-up for over two weeks for conference as to how they were to pass that particular conduit, either over or under a very large storm sewer.

[fol. 5115] Q. Your men were held up?

A. Yes, sir, we had to transfer them off on some other work.

Q. But they were not idle?

A. Yes; directly, every time you stop work, you lose money.

Q. In moving from one job to another?

A. To close up and to move on to another job.

Q. They didn't remain idle for days or weeks or anything like that?

A. Well, there were some—or one case like this, that is they had part of a trench open and closed it in again, because they were not ready to decide.

Q. Let me ask, suppose you were reconstructing the property of the Ohio Bell Telephone Company throughout the State of Ohio and you would meet a situation like this, what would you have your men do while this was being ironed out?

A. While there were conferences being held?

Q. Yes.

A. Well, you would probably move them on to some other place and perhaps start some other work, but you have lost while it is being done.

Q. That is long enough to move them from one place to another?

A. Yes; you have more than that; you have loss, for somebody to decide whether you are going to move immediately.

Q. But your laborers are not idle?

A. But your laborers when they encounter this particular obstruction, stop.

Q. Now, then, what do they do when you stop?

A. Now, then, the first thing is to get at someone to see if you can go over or under or to one side or the other, and you do not hesitate to keep your laborers around town if you think it can be settled in a few hours.

[fol. 5116] Q. Sure?

A. If it can not be settled in a few hours, why then try to find work for them someplace else; perhaps knock them off.

Commissioner Klinger: May I ask: Is not that factor provided for under your "Omissions and contingencies."

Mr. Calland: Supervision and everything else.

The Witness: Which—you mean in my set-up? I haven't made any.

Commissioner Klinger: Oh, you haven't?

The Witness (continuing): Omissions and contingencies.

Commissioner Klinger: Well, isn't it ordinarily taken care of in that factor?

The Witness: You mean by the telephone people? I don't know. In this particular case, it is taken care of—that is the contractor loses on it; the contracting company loses money on it. I don't know how the telephone company takes care of their end of it at the present time; I think they charge it directly to the job.

Q. Mr. Hogan, among the difficulties outlined by you in the construction of telephone conduit, you mentioned weather conditions and I believe you stated that your costs were based upon the continuance of underground conduit work in all kinds of weather, winter, summer and rain, or whatever it might be; is that correct?

A. Yes, sir.

Q. And you gave as one of the reasons for continuing this work through the winter that of preventing unemployment; is that correct?

A. Why, that was one of them, yes, sir.

Q. Well, now, suppose that the Ohio Bell Telephone Company responds to the request of Chambers of Commerce and [fol. 5117] continues conduit work through the winter at a greater cost, I assume it would be, wouldn't it?

A. Well, they have to balance your winter work cost against the cost of reorganizing every summer.

Q. Well, I am assuming they are going on through; now, winter work costs more than summer work?

A. Winter work costs more than summer work, a little more.

Q. So that they continue through the winter in response to this demand to keep men out of unemployment; now, you put that additional cost in this appraisal?

A. I put this cost of doing winter and summer work, average work, in my appraisal.

Q. Well then, who eventually pays for the donation on the part of the telephone company?

A. I don't know that there is a donation, Mr. Calland; in fact, that don't appear like a donation to me; it looks like the correct procedure, taking all things into consideration.

Q. Well, if they do this work at increased cost to provide against unemployment, it is more or less a donation in the interest of public welfare?

A. They don't do it to provide against unemployment;

that is not the sole reason for doing it; the main reason for doing it is an economical reason.

Q. Well then, we are not to pay much attention to that part of the reason; is that right?

A. That is a consideration.

Q. Well then, if it is to be considered, if you want the Commission to consider it, I want you to answer the question then who pays the freight?

A. I don't quite——

Q. Well, when you put that additional cost in this ap-
[fol. 5118] praisal, who eventually pays it—the telephone subscribers, don't they?

A. I presume so, yes.

Q. Why certainly?

A. (No response.)

Q. Now, among these difficulties which you list as being included in the construction of telephone conduit, you have "tunneling under railroads", and in your further discussion of the same subject, you mentioned as a basis for increased cost, the matter of furnishing heavy beams to be placed across the trench. Now, what are we to understand, are these conduits to be tunneled under the railroads or are they going to be trenched under?

A. It all depends on what you call a tunnel. Now, you can not trench through the railroad, that is, you can not have an open trench through a railroad.

Q. Then what are you going to do with these heavy beams across the trench?

A. Well, the heavy beams, you are to place under the ends of the ties to throw the weights of the locomotives and trains on to solid ground back from the trench.

Q. You mean trench or tunnel?

A. Trench or tunnel, either way.

Q. Well, which way is it to be done under your appraisal?

A. It has got the rails over the top of it so that it would be tunneling under the rails and it would be a trench as far as the earth is concerned, it is an open trench—as far as the earth is concerned.

Q. I think we understand that now. It is, in other words, you think you can call it either one; the only top of the tunnel is the railroad track?

[fol. 5119] A. Is the rails, yes, and perhaps one tie or maybe two.

Q. I understand it now. In your Exhibit Number 1, Sheet Number 1, you have an item of unloading, hauling and piling tile?

A. Yes, sir.

Q. I wish you would briefly outline to the Commission just what is involved in that operation?

A. To unload tile and pile and to take tile from a car, put it on the truck, truck it out to the location close to where your conduit was to be built and pile it in advance of your construction work.

Q. Yes, and then when you have done all of that, according to your estimate here, you are only half done getting these tile ready to put in the trench; is that correct?

A. Correct, as far as cost is concerned.

Q. You think so. It costs as much to distribute the tile along the trench as it does to unload it from the car, haul it out to the job, and unload it at the job?

A. Yes, sir, that is of labor cost.

Q. Well, it is all labor cost?

A. Well, there may be other items in there; you see, you have incidental expense to that.

Q. Well, tell this Commission what the operation of distributing is with tile?

A. The operation of distributing is to wheel it from the piles, or carry it with pick handles from the piles and lay it along side of the trench so that it will be in easy reach of the men lowering the tile into the trench.

Q. And where are these tiles put?

A. The tiles in some cases are on the side streets; the [fol. 5120] piles on Shaw Avenue are in a separate vacant lot that had to be hired and the tile piled there.

Q. Any place else where that ever occurred in your experience?

A. It occurs on most jobs.

Q. You mean to say on most jobs?

A. Yes.

Q. That the telephone company has to hire a lot to pile their tile on?

A. Not in reference to the lot, but with reference to the hauling and distributing, it does.

Q. Well, did you ever observe any tile laying around Columbus.

A. Yes, sir, quite a little.

Q. Did you ever see tile laying around the property on the sidewalk and along side of the trench?

A. I have seen it piled and I have seen it piled on side streets in Columbus.

Q. Did you ever see any lying along the trench, just right along the side of the trench?

A. No, sir.

Q. Never did?

A. That was before the trench was dug?

Q. No, after the trench was dug, while they were putting in this tile, ready to put it down?

A. When they are putting in the tile on the jobs, to unload in Columbus, the tile was delivered in piles, and then when we dug the trench, the tile was taken over and distributed lengthwise along the trench so that there were a correct number of pieces laid along the trench for each section.

Q. How far are these piles away from where the tile is to be put, ordinarily?

A. The general practice is, if you are permitted to pile that tile on the sidewalk, the general practice is to place your piles about thirty feet apart; and in sections where they won't permit you to place the tile on the sidewalk, [fol. 5121] then they pile them up in larger piles opposite a vacant lot or in front of some property where people are not so much concerned about piles of tile.

Q. Well, what about distance, that is what I ask?

A. Sometimes three or four hundred feet away, Mr. Calland, quite frequently.

Commissioner Geiger: Did you do any such work in Columbus?

The Witness: Yes, sir.

Commissioner Geiger: Well, how does your estimated value of reconstruction compare with the actual amount of the construction you have done in Columbus?

The Witness: I don't——

Commissioner Geiger: How does your estimate value of reconstruction compare with the actual construction you did in Columbus, in cost.

The Witness: Why, I would say about the same.

Commissioner Geiger: Well, why wouldn't it be much easier to tell us what is going to be the cost, or what these

things are worth, by telling what they cost instead of reconstructing something that never will be reconstructed.

The Witness: You mean that I should furnish you with actual costs of what I did in 1928?

Commissioner Geiger: Well, if you can, compare that with 1925.

The Witness: Well, I have not done that; I have not not set up any actual cost for 1928.

Mr. Burr: No, I think what Mr. Commissioner Geiger would like to know is how or to what extent you have used [fol. 5122] your actual costs experience in arriving at the costs which you have used in your Exhibits and testimony in this case. Am I correct in that?

Commissioner Geiger: Yes.

The Witness: Well, I think I have covered that in my testimony that I used a certain performance for digging in sand, a certain performance for rock and a certain performance for the other classifications.

Mr. Calland: It is noon.

Chairman McCulloch: We will adjourn until one thirty and perhaps we have a matter that will take a few minutes at that time, but we will try to get it disposed of as soon as we can.

And thereupon a recess was taken until 1:30 o'clock P. M. of same day.

[fol. 5123] Monday Afternoon Session

March 11, 1929.

And thereupon, the further hearing of this matter was resumed pursuant to recess.

Present:

Same parties by their counsel as at previous session.

And also PHILIP HOGAN, resuming the stand for further cross-examination, continued his testimony as follows:

Cross-examined by Mr. Calland:

Q. Mr. Hogan, you have in your Exhibit Number 1, Sheet Number 1, an item which you call "grading trench"; will you explain to the Commission what is involved in that operation?

A. Why after the trench has been roughly excavated, its contract is to select a man who is especially good at grading to grade the bottom of the trench so that the tile can be laid up without any unequal joints or uneven joints.

Q. Let's see, what do you put in this trench first?

A. Sir?

Q. What is the first thing you put in the bottom of the [fol. 5124] trench.

A. After it has been graded?

Q. Yes.

A. Concrete protection, concrete base.

Q. A concrete slab, is it?

A. Pour concrete.

Q. Pour concrete?

A. In the trench, four inches thick.

Q. And you think it would be necessary to have the bottom of the trench all graded up so as not to interfere with the tile when you are going to pour the concrete in it?

A. Yes, sir, it is common practice to do it.

Q. Well, I did not ask you what the common practice was; I asked you if it was necessary to have the bottom of this trench graded to exactness when you are going to pour concrete in it?

A. Yes, sir, it is necessary and it is done.

Q. What difference would it make in the laying up of the tile on top of the concrete?

A. It would mean quite a difference in the evenness of your concrete base if you did not have an even space.

Q. That is make it thick, if you cut out more, take more concrete if you grade to get the corners out of the trench?

A. I do not quite understand, "The corners of the trench", the specification is to dig your trench a certain depth and a certain width and it is your specification to place a four inch concrete base and to have your tile properly aligned. Now then, if you had an uneven bottom, to your trench, and poured in four inch concrete base, or attempted to, if you made your concrete base four inches thick at all points, it would have the same unevenness as the bottom of the trench.

Q. Your concrete would?

A. Yes, sir.

[fol. 5125] Q. What shape is this concrete going to be in when you pour it?

A. It is going to be in concrete shape.

Q. Hard?

A. No.

Q. Won't it settle down, level up on top?

A. If it does, you can not have four inches of concrete in your thickness at all points.

Q. All right. Now calling your attention to Sheet Number 8 of your Exhibit Number 1, Mr. Hogan, just as an example you show Mr. Allensworth with an item of stable and garage?

A. Yes, sir.

Q. While you do not show any amount for that item?

A. That is right.

Q. I believe you said this morning that your stable and garage is included in your incidental expense?

A. That is correct.

Q. Then in that instance, as well as on other instances, where blanks appear either in your figures or in the column representing Mr. Allensworth's figures, it does not necessarily mean that that item has not been taken into consideration, does it?

A. Mr. Allensworth doesn't show any item in his labor detail or in any of his exhibits that I have seen that covers the cost of distributing tile along the trench; that covers the cost of grading the trench; that covers the cost of side fill and tamp; that covers the cost of tamping the trench.

Q. Well, you say he does not show any item of that?

A. That is right.

Q. You don't mean to say that it is not in his appraisal?

A. I haven't questioned Mr. Allensworth; I don't know [fol. 5126] what Mr. Allensworth claims.

Q. I just want to make your exhibit clear to the Commission and have you say whether it means when you leave the blank in Mr. Allensworth's column, whether you mean by that that he has not included that item at all under some other name.

A. I have not found them in Mr. Allensworth's appraisal; I have not found them accounted for, any of those items that are blank; I have been unable to find them in Mr. Allensworth's appraisal or in his exhibits.

Q. You have not found any of those that you have mentioned?

A. No, sir.

Q. Are there any others that you have not found?

A. I would have to check over all the exhibits here to tell

you. That is, wherever I have not found them, I have marked a dotted line.

Q. Then the dotted line means that you were unable to find in Mr. Allensworth's appraisal any allowance for those items; is that right?

A. Correct, yes, sir.

Mr. Burr: May I just for the sake of the record ask him one question? If you don't like it here, I will take it out then. In some places where you have shown blanks under headings of Mr. Allensworth's name, haven't you used the words "included above" so as to show that his cost in that item is included in a previous cost item? I won't ask the question if you don't want it.

Mr. Calland: There is no objection.

Mr. Burr: But if it is all right, I would like to put it in here. You can answer that by yes or no.

The Witness: Sir?

[fol. 5127] Mr. Burr: You can answer that by yes or no.

The Witness: Yes. On one item that is included as miscellaneous material and his freight and his tile together.

Mr. Burr: Yes, all right.

Q. Well then, except where you have it indicated in your exhibits, the blanks mean that you were unable to find that Mr. Allensworth had made any allowance for the items thus marked?

A. That is correct.

Q. Well, now, Mr. Hogan, is the converse of that true, where if we find on your exhibits that you have left blanks in your figures and we find figures for items of Mr. Allensworth, that you have not considered those items?

A. In the case of stable and garage, I have included that in my——

Q. Incidentals?

A. In my incidental expense.

Q. Well, now, look at Sheet Number 9 of your Exhibit Number 1 and tell me whether those blanks on that sheet mean that you have not allowed anything for the items where the blanks appear?

A. Sheet Number 9, I have not allowed anything for railroad iron, angle iron, I beams, lag screws, cable hooks, wood; cable racks, wood; iron pole steps, strap irons and nothing under miscellaneous material.

Q. Did you examine the company's inventory in this case to find out whether those items appeared in it?

A. In the case of the underground conduit——

Q. This is an average manhole, I believe, Mr. Hogan, Sheet Number 9?

A. In the case of underground conduit including manholes, I used Mr. Allensworth's appraisal.

Q. Well, you did not use it on Sheet Number 9, did you?

A. Yes, sir, that is, I used it partially.

[fol. 5128] Q. You have, one, two, three, four, five, six, seven, eight, nine, ten blanks on that page?

A. That is right.

Q. That Mr. Allensworth retains them—that you did not include at all?

A. That is right.

Q. Well, did you examine the company's inventory then to find out which was right, you or Mr. Allensworth?

A. No, sir.

Q. You did not?

A. There is not enough involved in the whole thing to argue about in those items.

Q. Now, will you explain to the Commission just what is included in your item of incidentals?

A. Incidentals includes on underground conduit, rental of an air compressor, pavement breakers, power pumps, trucks, and a small allowance for street car fare. That is shown, Mr. Calland, in my Exhibit Number 4.

Q. Can you give us the page?

A. Yes, Sheet Number 2, Exhibit Number 4, 1 one ton truck with driver, 1 two and one half ton truck or larger, one air compressor with two pavement breakers, and spader and one power pump.

Q. Then that item A on Sheet Number 2 of Exhibit Number 4 comprises all the items which you include in your incidental expense, is that correct?

A. Not entirely all; there is a small amount of street car fare and occasional railroad expense in connection with this kind of work.

Q. How much did you allow for that?

A. Probably amount to about a little over one per cent.

Q. What per cent did you allow for street car fare?

A. I grouped the street car fare and incidentals to make it about 1.3 per cent.

[fol. 5129] Q. You mean the street car fare 1.3 per cent.

A. The street car fare and lunch money and railroad fare or any other items that go into that.

Q. You said the railroad fare was one per cent, now, you add these others to it and make it 1.3, is that right?

A. Did I say that?

Q. That is what I understood?

A. How.

Q. That is what I understood. Read it.

(Previous testimony read.)

Q. That was all included then in that one?

A. I think so, yes.

Q. In your Exhibit Number 1, Sheet Number 9, being the set-up for the average manhole, you show sheeting for manholes, and have fixed the price of $7.50 for the cost of sheeting for the average manhole in the property of the Ohio Bell Telephone. In answer to a question by Commissioner Geiger, you stated that this $7.50 was arrived at by taking $30.00 as the cost of material and using it four times; is that correct?

A. I also told them that it was covered in detail in my Exhibit Number 14—or Mr. Burr did.

Q. Yes, but I am asking you what you told the Commissioner in the record; didn't you say that you allowed $7.50 because it was $30.00 divided four times?

A. I would like to hear the record read, of that, Mr. Calland.

Q. All right, I will see if I can find it. Yes, I will read the record, Page 3790, by Commissioner Geiger.

"Question. Now, you have charged that sheeting up to each manhole at the rate of $7.50?

"Answer. Yes, sir."

"Question. Is that for placing the sheeting or for the sheeting itself?

[fol. 5130] "Answer. The sheeting lumber for a manhole would cost about $30.00 and after you use it about three times, it is done for. That is, you lose about one-third of the sheeting in driving it and pulling it."

"Question. Well then, you use $30.00 worth of material three times?

"Answer. For three manholes, and I took one-third of it; that is our experience in it is that sheeting——"

"Question. Well, you took one-fourth, if it is $30.00 you have got it $7.50?

"Answer. Well, the explanation for that, I believe is in the Number 4.

"Question. All right. Your position is that sheeting can not be used on the average more than four manholes?

"Answer. Three or four manholes, something like that."

Does that refresh your recollection?

A. That is right.

Q. All right, in your Exhibit Number 2, Sheet Number 30, you estimate, do you not, that only twenty-five per cent of the manholes in Ohio have to be sheeted?

A. That is right.

Q. Then shouldn't the cost of sheeting for the average manhole be twenty-five per cent of $7.50 instead of $7.50?

A. On Sheet Number 30, I say more than twenty-five per cent of the manholes in Ohio have to be sheeted.

Q. Yes.

A. Then on Sheet Number 31, I say, lumber for sheeting manholes, $30.00. And 25 per cent of the manholes sheeted——

Q. $7.50.

A. That would be $7.50 per manhole.

Q. Well, didn't you tell the Commissioner that you could use this material four times before it was worn out?

[fol. 5131] A. That is right.

Q. So then it would be one-fourth of $7.50 instead of $7.50?

A. No, it would still be one-fourth of $30.00, the sheeting for that manhole, based on a third lost, amounts to $30.00 per manhole.

Q. Well then, what is the cost of the lumber originally then for one manhole?

A. I would have to work that out——

Q. Well, it would be $90.00 wouldn't it, under your figuring?

A. No.

Q. If the cost per manhole when you are using it three times is $30.00, then it would be certainly ninety?

A. No, that $30.00 is based on a loss, Mr. Calland.

Q. All right.

A. That is the amount of lumber that you consume in building a manhole. Now, there are four manholes sheeted

and the cost of the manholes would be twenty-five per cent of those or $7.50?

Q. Yes, but you are going to use this lumber four times, you told the Commissioner; you now want to say three times. What do you do with it?

A. Then that lumber—that is the amount of money that you consume in lumber or that is paid for the lumber that is consumed in building a manhole—$30.00.

Q. Figured how?

A. Figured on the basis of about a third loss in the lumber per manhole.

Q. Then for new lumber each time, you would have to buy $90.00 worth, wouldn't you?

A. I don't quite get your figure.

Q. If you are going to use new lumber on each manhole each time, you would have to pay $90.00, for it wouldn't you?

[fol. 5132] A. Yes, sir, that would be right.

Q. What kind of lumber is this?

A. Two inch by twelve or two inch by ten.

Q. How many feet of that kind of lumber can you buy for $90.00—could you buy on June 30, 1925?

A. That would run about $60.00 a thousand.

Q. And you would have 1500 feet?

A. Board feet.

Q. Board feet of lumber for each manhole?

A. About that; you also have to take into consideration your spring pieces you know, the braces.

Q. I was just going to ask you that—to tell the Commission how the size is, its average size manhole?

A. That is given in Page 30, Exhibit Number 2.

Q. Then we can figure it out ourselves; we don't need to bother you.

A. (No response.)

Commissioner Geiger: Can't you tell us without taking so long, how much lumber does it take to put in an ordinary manhole—sheeting.

Mr. Calland: 1500 feet.

Commissioner Geiger: Don't take 1500 feet, does it?

The Witness: Well, board feet; you see your planks are two inches thick and you have your cross pieces four by six, your braces.

Commissioner Geiger: Well, how do you buy it; pay $90.00 a thousand or how much a thousand?

The Witness: About $60.00 a thousand.

Commissioner Geiger: About $60.00 a thousand.

The Witness: Yes, sir.

[fol. 5133] Commissioner Geiger: Board feet?

The Witness: Board feet, yes, sir.

Commissioner Geiger: Well, you still have then 1500 feet that you are using, board feet; you pay $90.00 for?

Commissioner Klinger: Board feet.

Mr. Burr: Board feet would be 750 lineal feet.

Mr. Thompson: No, it would not be that much when you cut your braces.

Mr. Burr: Oh, no, I mean that counting the price, 1500 feet, for this sort of material, if I understand the witness, would be 750 lineal feet, because the material is two inches thick.

Q. That is because when you speak of board feet, you mean lumber one inch thick?

A. That is right.

Commissioner Geiger: Well, that would be easy for somebody to estimate who is familiar with it.

Mr. Calland: If the Commission wants it done, we will have the witness figure it out for you. I think we can do it later.

Commissioner Klinger: Give us the dimensions of this average manhole that you are contemplating.

Mr. Calland: They are given in the exhibit.

The Witness: If you insist upon it, I will have it gotten.

Commissioner Klinger: All right, if it is in the exhibit, I don't care to duplicate or repeat.

Commissioner Geiger: Have you figured it out?

Mr. Calland: I haven't yet. I am going to.

Commissioner Geiger: Oh, you are going to?

[fol. 5134] Mr. Calland: Just getting the facts.

Mr. Burr: Have you that?

Mr. Calland: Sheet 30 of Exhibit Number 2.

Q. On Sheet Number 9 of your Exhibit Number 1, you show an item in your unit cost for an average manhole for duct shields of $2.31 against a cost estimated by Mr. Allensworth of 57 cents. At Sheet Number 31 of your Exhibit Number 2, you show that you have estimated fourteen duct

shields for your average manhole which I believe is a seven duct manhole, that is, you take seven duct as the average hole?

A. That is right.

Q. Did you make any investigation to determine how many duct shields there actually were in the property of the Ohio Bell Telephone Company on June 30, 1925?

A. No, sir.

Q. Are you aware of the fact that according to the statement of the Ohio Telephone Company concerning its inventory and appraisal in this case that on June 30, 1925, there was only an average of three and a half duct shields per man-hole instead of fourteen as you have estimated?

A. No, sir.

Q. You have not investigated?

A. I did not see their inventory.

Q. You did not see their inventory?

A. Excepting I had the copy of Mr. Allensworth's inventory.

Q. Mr. Allensworth made no inventory, did he, in this case?

A. Well, he showed an inventory in his appraisal.

Q. Well, how many duct shields did you find allowed by him per manhole?

A. I did not use what he allowed.

Q. I said how many?

A. I don't recall.

[fol. 5135] Q. Where did you get your fourteen per manhole?

A. Because there are fourteen trucks in each manhole.

Q. Yes.

A. Seven from each end and as the average manhole is seven ducts—seven ducts from each end, and it is all shielded.

Q. Is all shielded?

A. Is all shielded, there would be a duct shield in every duct.

Commissioner Geiger: What is a duct shield?

Q. Tell them what a duct shield is?

A. It protects chafing of the cable; it sets into the entrance of the duct and the cable rests on it rather than on the edge of the tile duct.

Commissioner Geiger: Of what is it made, wood?

The Witness: Made of galvanized iron as a rule, although there are some people use lead duct shields that they make out of junk lead sheathing.

Commissioner Klinger: What is the purpose—of a landing, is that it?

The Witness: Yes, sir, a bearing for the cable so that the edge of the cable won't chafe on the edge of the duct.

Q. Well, now, bearing in mind that what we are doing is reproducing the property of the Ohio Bell Telephone Company on June 30, 1925, if I now understand you, you made no investigation to find out how many duct shields per manhole that the company had on that date?

A. That is right.

Q. And you do not know how many they did have, do you?

A. No, sir; I used their specifications and the general practice.

[fol. 5136] Q. And disregarded the fact of whether they were there or not?

A. I had no means of knowing so far as I could see.

Q. Where did you get your information upon which you base your appraisal in this case, Mr. Hogan?

A. I got from Mr. Allensworth or from the telephone company, Mr. Allensworth's Exhibits in this case.

Q. And because you did not find fourteen ducts per manhole on here, you just assumed that he was all wrong and used fourteen anyhow?

A. Wherever I thought that Mr. Allensworth did not use what is common practice to use, I set up the common practice on it.

Q. You have undertaken to furnish some figures from an appraisal here. You have not only pointed out where Mr. Allensworth is wrong, but you have furnished some figures of ours for this valuation?

A. I followed their specifications on it.

Q. Then this plant of yours is an A. T. & T. specification plant?

A. It is a specification plant.

Q. Not the plant that may actually be in the field?

A. It is a specification plant such as they would rebuild—such as they would replace if they were replacing.

Q. But I am asking you whether it was the plant that was in the field on June 30, 1925?

A. That would be rather difficult for anyone to know, what was in the plant as of June 30, 1925.

Q. Was there an inventory filed in this case?

A. Well, as I know it, there was a partial inventory.

Q. You mean that the company has not filed an inventory?

A. I understand there was filed, inventory filed subject [fol. 5137] to certain percentage of the——

Q. Go ahead and tell what you know as to the inventory?

A. I don't know whether or not that is in Mr. Allensworth's exhibits.

Q. Did Mr. Allensworth make that inventory for the company; is that your idea that he made inventory for the company?

A. I don't know whether Mr. Allensworth did or not, Mr. Calland.

Q. Do you know whether anybody did?

A. I take it that the telephone company made——

Q. Do you know whether anybody did—just anwer the question.

A. That I would personally know?

Q. Yes, I am serious; do you know where there was an inventory of the company's property in this case?

A. I was not in this case in 1925, and I don't know what was done.

Q. Then you don't know whether there was an inventory of the company's property as of June 30, 1925, in this case?

A. I never saw an inventory of the company's appraisal.

Q. You make a valuation and appraisal in this case and never saw any inventory?

A. That is right, I never went over their inventory.

Commissioner Geiger: Well, do I understand then that when you sought to reconstruct this plant, you reconstructed it as it would have been reconstructed under the specifications for the A. T. & T. in 1925, irrespective of what was actually in the plant at that time? In other words, you were going to construct a perfect plant according to specifications of A. T. & T.?

The Witness: No, I didn't do that, Your Honor. For [fol. 5138] instance, on a manhole, I used the average manhole that was claimed to have been used or been in existence.

Q. Who claimed to have used it?

A. I find it here in Mr. Allensworth's figures.

Q. Do you find fourteen ducts per manhole in Mr. Allensworth's figures?

A. Well, I can not—just give me a little time and I will find Mr. Allensworth's statement here.

Q. Mr. Hogan, may we pass that and you look it up later and give it to us?

A. Yes.

Q. You are to furnish the reference to Mr. Allensworth's testimony where he said there were fourteen duct shields testified to per average manhole?

A. No, I didn't say that.

Q. What did you look for?

A. I was looking for the average size manhole.

Q. We are talking about duct shields now?

A. I did not tell you at any time, Mr. Calland, that I was going to furnish information from Mr. Allensworth's fourteen duct shields.

Q. As far as you know, is there any difference between the average size manhole used by you and Mr. Allensworth?

A. I used the same size manhole that he did.

Q. Correct. Now, on Sheet Number 9 of this Exhibit 1, again, you have an allowance for cost in your average manhole of $2.11 for duct plugs as against Mr. Allensworth's allowance of thirty-six cents. You stated in there, did you not that you considered the seven duct tile as the average in that company's property. On Sheet Number 31 of your Exhibit Number 2, you show fourteen duct plugs [fol. 5139] for your average manhole?

A. That is right.

Q. What is a duct plug?

A. That is a square plug, in the case of multiple tile duct that is placed in the ducts to keep the sediment out of them when the manholes are first constructed, and then as the cable is placed, the duct plug is withdrawn and a duct shield is entered into the duct.

Q. And then what do you do with it after that?

A. The duct shield or the duct plug?

Q. What do you do with the duct after that; you use your duct plug and now you take it out——

A. You take the duct plug out, pull the cable in and place your duct shield.

Q. And throw the duct plug away?

A. I don't know whether they are thrown away or not; I think there are considerable of them lost in the manholes.

Q. Well, your estimate is based on the proposition that they are going to throw them away, isn't it?

A. My estimate is based on loss of them.

Q. And all of them, never use them but once?

A. Practically all.

Q. Practically all—all isn't it, you show fourteen for your average manhole; that is all?

A. Well, some of them stay there until the manholes are entirely filled up with cables, see.

Commissioner Geiger: Now, just what are they, wooden plugs?

The Witness: Wooden plugs.

Commissioner Geiger: To put in to keep the dirt out?

The Witness: That is right.

[fol. 5140] Commissioner Geiger: Until the cable gets in?

The witness: That is right.

Commissioner Geiger: And you have estimated that you have to have fourteen for each manhole?

The Witness: That is right.

Mr. Calland: That is one for each cable that comes into every manhole?

Commissioner Geiger: Well, if the work is done, in the manhole, in the wintertime, they need something to keep people warm and probably use them for kindling wood.

Mr. Calland: I suppose—good answer.

Q. Did you make any attempt to find out either from the company's inventory or from any other source or information how many duct plugs there actually were in the property of the Ohio Bell Telephone Company on June 30, 1925?

A. No, sir.

Q. Then you are not aware of the fact that in the company's own figures furnished in this case, they show an average of 2.4 duct plugs per manhole instead of fourteen as you have it?

A. No, sir, I was not aware of that.

Q. Now, I will ask you again where you got the information that you built your appraisal in this case? I would like to know.

Mr. Burr: Are you talking now just about the conduit?

Mr. Calland: No, the whole appraisal.

Commissioner Klinger: You mean the basis?

Mr. Calland: The basis for all of his figures.

Commissioner Klinger: Of comparing his exhibit?

Mr. Calland: Upon which to build his figures. I want to [fol. 5141] know the basis upon which he got all his figures? He doesn't even know whether the company has a complete inventory in this case.

The Witness: That is with reference to conduit, only.

Mr. Calland: Oh, you want to limit that to conduit, only?

The Witness: That is all we are discussing is conduit.

Q. Then the situation is different in reference to the balance of the plant?

A. The situation is different in reference to the balance of the plant, but I had the Bell Telephone Company's appraisal.

Q. And you did examine it for the other, of the rest of the plant?

A. I did not examine it for the rest of the plant.

Q. All the rest of the plant?

A. Yes, sir, in setting up my conduit, I was asked by the telephone company to set it up parallel to Mr. Allensworth's set-up.

Q. And what did they ask you to set up?

A. They asked me to set up comparison sheets with Mr. Allenworth's.

Q. Comparing what with what?

A. Comparing Mr. Allensworth's set-up of construction for what I thought it ought to be with my experience.

Q. And also with what you thought the company's property ought to be?

A. Not necessarily.

Q. I am talking about underground conduit now.

A. I don't quite get your question on that.

Q. Well, you have said the specifications require a duct shield in every cable duct and you did that because the specifications said so; now is that true of the rest of your [fol. 5142] conduit construction?

A. Well, I will tell you another thing on that, I assumed that every tile had a mortar joint on it and I did not dig up any streets to find out whether they did or whether they did not.

Q. We are coming to that depth of tile after a bit. Now, on this same sheet Number 9 of your Exhibit Number 1, in your cost for this average manhole, will you tell the Commission now what the size of this average manhole is? You will find it on Sheet Number 30 of your Exhibit Number 2. Found it?

A. Excavation for the manhole.

Q. Just read the first—isn't it in the first sentence at the top of the Page 30 of your Exhibit Number 2, the dimensions of your manhole?

A. The Ohio Bell shows average size of manhole inside dimension, 74.5 inches long; 45.5 inches wide, and 65.1 inch of headroom.

Q. Now, what do you mean by headroom?

A. That is from the floor to the underside of the roof.

Q. Yes. Now, on this Sheet Number 9 of Exhibit Number 1, you show a seven foot ladder to each of these manholes; now, will you tell the Commission where you are going to put this seven foot ladder with five foot, five inch headroom?

A. The seven foot ladder goes in at an angle in the manholes; seven foot ladder would be the right and proper size for manhole about that size.

Commissioner Geiger: What do you mean by going in an angle, assist the wall?

The Witness: No, the opening to the manhole as a rule is in the center of the fold between the side walls, and use the ladder to get in and out of the hole. Now, the ladder [fol. 5143] is in a fixed part of the manhole; the ladder has to be taken out when they are drawing in cables, and it has to be removed during the time that the splicers are setting up cables, and when the ladder is in its possession, it rests against the neck of the manhole right against the cover and slants down into the floor, the other end of it laying on to the floor.

Commissioner Geiger: Didn't you give me the impression about the ladders, that the ladders were built in and fastened to the side of the wall?

The Witness: I did not intend to, because I never saw them build it.

Commissioner Geiger: Well then, what is the use of having an iron ladder for every manhole.

The Witness: They have the iron ladders for every manhole to guard it mostly against accident in men getting in and out of the holes.

Commissioner Geiger: You mean serve as a cover to the hole?

The Witness: Sir?

Commissioner Geiger: Do they serve as a cover to the hole?

The Witness: No, sir, they just serve as a means of permitting men to get in and out of the manhole without slipping or having accidents.

Q. Well, now, Mr. Calland, how many of these ladders would that take?

Commissioner Geiger: I would like to get in the record why is there a necessity of having an iron ladder to every [fol. 5144] manhole.

Mr. Calland: Yes.

Q. May I ask how many of these ladders would it take to furnish each crew that goes out to work in each manhole with a ladder, put it in to get down in the hole?

A. It is not just a case of equipping the crews that work in the manholes. It is also the case of having a ladder there for the supervisor when he wants to make an inspection of the manhole; having the ladder there for the electrolysis inspectors, when they want to go in and test for electrolysis; those men usually travel on foot; also to have the ladder there for the man who makes the duct selections for the cable to be place-.

Q. Well, is it impossible to put a ladder or some sort of an arrangement temporarily in that manhole for those men to go up and down?

A. Well, it would interfere with the pulling of the cable and it would interfere with the setting up of the cable if it was placed in there permanently.

Q. Did you ever see a manhole with these steel—oh, I don't know what you call it——

A. Spikes.

Q. Spikes fixed into the hole?

A. I have seen sewer manholes.

Q. Don't do that at all?

A. Where they are about the same width all the way to the top, but you see in this case your opening is about twenty-seven inches wide and your manhole—your opening would be about thirty inches wide, and your manhole about forty-five inches wide.

Q. Then when your man goes down in there to work, he has to shove the ladder out; he could not work with it in [fol. 5145] there, could he?

A. It depends on what he is going to do in there. If it is just an inspector making a test for electrolysis or a man making a selection for the duct assignments, why he would probably leave the ladder right where it is.

Q. Did you examine the Company's inventory to find out whether they had got any of these ladders or had any on June 30, 1925, in their manholes?

A. No, sir, I didn't examine their inventories of manhole work at all.

Q. You are not aware of the fact that they do not show them.

A. No, I have seen hundreds of ladders in manholes in Ohio. It has been a standard practice to equip manholes with ladders for the last twenty years.

Q. The Ohio Bell Telephone Company?

A. I don't know whether theirs date back fifteen or twenty years ago, but I know that dates back over ten years.

Q. We are talking about 1925; that is only four years ago.

A. Well, their equipping of the manholes with ladders dates back ten years.

Q. On Sheet 31 of your Exhibit Number 2, you show fourteen cable hooks in your average manhole, do you not?

A. Yes, sir.

Q. Did you make any investigation to determine how many cable hooks the company showed in this case they had?

A. I didn't see the company's inventory in this case.

Q. You are not prepared to say whether their figures of 3 plus is correct?

A. No, sir.

Q. As against your fourteen?

A. No, sir.

Q. In all of these matters of the duct plugs and the duct shields, and the ladders and the cable racks, if it should [fol. 5146] develop that the company was correct in the number they show they had then your figures would have to be revised accordingly, wouldn't they?

A. I would think so, yes. That is, if they knew definitely that they did not have that many, I would think that my figures should be revised.

Q. Well, of course, they have already testified and they have introduced the figures, and of course, we have already counted upon it as being the basis of their inventory; of course, they may change it now since they have you added in the payroll?

A. Is that in the record that I am on the Bell Telephone Company?

Mr. Thompson: Oh, the whole remark is improper.

Mr. Calland: It was a question.

Mr. Thompson: It was, I think, highly improper and I move it be stricken out.

Mr. Calland: Entirely inadvertent on my part.

Commissioner Klinger: The motion to strike out will be sustained

Mr. Calland: Be sustained. I don't care.

Q. At Page 3684 of the record, Mr. Hogan, you discuss the matter of supply expense in connection with your conduit construction estimates and stated that you had used four per cent.

A. Yes, sir.

Q. For supply expense; will you tell the commission what is included in your supply expense?

A. I believe I did, Mr. Calland.

Q. Possibly; if you did, I don't recall it.

A. I think it is in the record, in once.

Q. How long would it take you right now to outline it [fol. 5147] again for the purpose of another question?

A. Why, I would say in supply expense, that you would have your supply superintendence; you would have rent for your warehouses; you would have the cost of the organization necessary for making out orders for supplies, setting up supply cost, sheets or price sheets, some classes of deliveries.

Q. Mr. Hogan, assuming that you have, as you think, outlined this fully in your previous examination and with-

out foreclosing you if you have not stated them all here—and I know you have not—let me ask this question; have you furnished us in your exhibits anywhere as to how much of your supply expense is applicable to supply superintendence?

A. No, sir, I haven't.

Q. Have you as to the rent of warehouses?

A. No, sir.

Q. Have you as to the cost of the organization to make up orders?

A. No, sir.

Q. Or the deliveries?

A. I furnished no breakdown at all, Mr. Calland.

Q. Can you?

A. I think so.

Q. Will you?

A. I will be glad to.

Q. I wish you would?

A.

(No response.)

Q. Mr. Hogan, in your set-up of this conduit construction, you have used twenty-five per cent for supervision?

A. Yes, sir.

Q. Does that mean a supervisor for each four men?

A. Twenty-five per cent for——

Q. Twenty-five per cent of the payroll for supervision; I am asking, does that mean a supervisor for each four men?

A. I haven't set up a breakdown of that twenty-five per [fol. 5148] cent supervision, but I will be glad to do that, too, for you, if you want it.

Q. Well, you can answer this question, too, can't you, whether or not it means a supervisor for each four men?

A. A foreman for each four men?

Q. Yes, twenty-five per cent of payroll.

A. Well, there are a lot of things that go into supervision besides supervisor.

Q. That is what I am getting at.

A. That is classed cost new supervision; there is office force and office expense cost in that supervision. I think I gave in detail the make-up of supervision—that is the things in general that went into them, the last day I testified.

Q. And you have already said that you have not broken that down?

A. I have not broken it down to the amount of money that would go for each particular item.

Q. But you will do that?

A. I will be glad to do that for you, yes, sir. That is, if this will satisfy your purpose, I will set you up a typical organization chart, showing by name or title the various people used in a supervisory organization, and the approximate salaries paid them.

Commissioner Geiger: Haven't you got that in your pole sets or your pole matters.

The Witness: Yes, sir, up to and including the general foremen. I haven't that part of it that is classed as supervision from the general foreman to and including the general plant superintendent.

Commissioner Geiger: Well, your foreman has to be supervised then, does he, too?

[fol. 5149] The Witness: Sir?

Commissioner Geiger: The foreman is supervised; there is supervision over the foreman?

The Witness: Well, there are supervisors over so many foremen.

Q. And engineering over the top of them yet?

A. Have you reference to general engineering, Mr. Calland?

Q. Yes.

A. I did not include any general engineering in my expense; I included construction engineering and that is a man who goes out and supplies the location for the poles and the conduit and the manholes and so on; I have included his expense in my supervision; I have included the cost accountants, the man who takes the time sheets and takes off of the time sheets the units of work done.

Q. Well, now, Mr. Hogan, if you were reconstructing a plant like the Ohio Bell Telephone Company, you would have a considerable force, a considerable engineering expense before you ever started to build, wouldn't you?

A. Have you reference to field engineering or have you reference to the general engineering?

Q. The general engineering.

A. I didn't put into construction in my work or my set-up

here, general engineering at all. There is no general engineering in my figures.

Q. Mr. Hogan, at several places in your examination in chief and possibly in your cross-examination—I haven't undertaken to note down the places—if you will recall it, you refer to the uniform system of accounting of the Interstate Commerce Commission and as adopted by the Ohio Commission.

A. Yes, sir.

[fol. 5150] Q. I want to hand you a pamphlet setting up that uniform system of accounts?

A. I have a copy of it here.

Q. Or if you have a copy of it, you can use yours; and I ask you to point out where in that set of rules there is anything directing telephone companies how to make appraisements?

A. To make appraisals?

Q. Yes, for rate services?

A. There is nothing in the uniform system of accounts so far as I know directing how rate cases shall be made or appraisals shall be made.

Q. Well then, if Mr. Allensworth or any other engineer happened to build an appraisal in a manner different from the way the Ohio Bell Telephone Company builds it, it would not violate these rules at all, would it?

A. I don't think so.

Q. You said, I believe, that you didn't set up any general engineering charge?

A. That is right.

Q. Of that kind; do you have any such thing in your own organization?

A. General engineering?

Q. Yes.

A. In the companies I am with now?

Q. Yes.

A. No, we don't.

Q. Well, how many of these supervisors over your foremen do you have?

A. Well, I have already testified after a six months' check-up——

Q. Well, I am asking of your company?

A. Of supervision for the American Cable & Conduit?

Q. Well, the Ryan Company and the Fischel Company.

A. We have sub-foremen, foremen, superintendents.

Q. And where are the supervisors that you are talking about in your organization—now, I am talking about?

[fol. 5151] A. Well, neither one of my organizations, the ones I am with now are large enough for supervisors. When I was with the American Cable & Conduit Company, they had sub-foremen, foremen, supervisors and superintendents.

Q. How big does an organization have to be before it needs those?

A. You see, we only have two crews going in the Ryan Company, and three crews going in the Fischel Company; it is not large enough for that.

Q. You build telephone conduits without them, don't you?

A. Sir?

Q. You build telephone conduits without them, don't you?

A. A small amount; if we were to double the size of our contracts, we would double the size of our organization and we would have a line of supervisors in between the superintendents and the foremen.

[fol. 5152] Q. Well, for instance, if you have a telephone conduit job within a city and you have a gang or two gangs working at it, you get along with your superintendent, is that right?

A. If there were only one or two gangs, but you see on your proposal—on that proposal here that this plant would be reproduced in a five year period it would take some fifteen or twenty gangs *g*ive years to reproduce it.

Q. Yes.

A. So that on a set-up of that sort, you would have your sub-foremen reporting to your foremen on each job; then you would probably have three foremen reporting to a supervisor, and about three supervisors reporting to a definite supervisor whose business would be confined strictly to the conduit construction, and a supervisor in turn report to your general foreman or even construction superintendent, who would give only part of his time to conduit, part of it to cable and part of it to poles. That would be the logical set-up for a job of this size.

Q. Mr. Hogan, at page 3688, you were pointing out instances where Mr. Allensworth had omitted essential things in his appraisal, and you spoke of the fact that Mr. Allensworth had omitted trucks from some of his typical crews; will you tell the Commission what those crews were that he omitted trucks from that should have had them?

A. Did I say "trucks" or "truck", Mr. Calland?

Q. Well, "truck per crew", one truck per crew?

A. Will you read the testimony, please.

Q. 3688. "Question: In what respects do you find it difficult to understand that?"

"Answer: Well, in his cross-examination, Exhibit Number 11, on the details, he shows 16 typical organizations for [fol. 5153] reproducing this outside plant. For 15 of these 16 typical organizations, he has included the cost of a truck in the direct labor costs, for the other one of the 16, he has omitted the cost of the truck in his direct labor costs." I want to find out what crew that is that he omitted that truck.

A. On Page 27 of Mr. Allensworth's cross-examination, Exhibit Number 11—Are you waiting for me?

Q. Yes.

A. Oh, I thought you had a copy of it.

Q. No, we have not a copy.

A. In Mr. Allensworth's cross-examination, Exhibit Number 11, Page 27, "House cable, labor, typical crew for installing house cable: One foreman, three installers, two helpers." I have been unable to find anything on that page in connection with a truck for the house cable work or for that crew.

Q. And you insist that they have got to have a truck; is that right?

A. I insist that they have to have their tools moved there and I insist that they have to have their cable moved there.

Q. Well, the truck would be used all day, would it?

A. Not necessarily all day, no, a truck would take care of two or three crews of this kind.

Q. Well, omitting a truck for one crew, he wasn't so wrong after all, was he?

A. No, I say that he had included the truck in the labor for fifteen crews.

Q. But he did not include it in the house cable crew and that is what you are complaining about?

A. He does not show any place for any truck or any part of a truck.

Q. And I asked you whether a house cable crew needed [fol. 5154] a truck all the time.

A. Not necessarily.

Q. Is that the only one of the crews that he omitted the truck from, Mr. Hogan?

A. That is all that I can recall. I looked through his set-up and there were fifteen of the crews that he had allowed a truck for.

Q. At Page 3691, Mr. Hogan, is an example—to use the same language several places in your examination—do you refer to your telephone experience as the basis of your judgment in this particular instance here; that was when you were discussing tools expense; your telephone experience was Bell Telephone experience, wasn't it?

A. With the exception of about a year and a half that I was with the Kansas City Telephone Company.

Q. Which company was taken over by the Bell?

A. About 1025, I think it was bought by the Bell; it was not a Bell Company when I was with it.

Q. Was it taken over during your appointment with them?

A. No, sir.

Q. After you left?

A. After I left.

Q. On your Exhibit Number 3, Mr. Hogan, Sheet Number 2, you have set up your costs for breaking pavement over manholes, and in the first line that goes clear across the page you have given your rate for labor, that is manual labor, and machines, and as I read the Exhibit, you have applied that rate to the various areas of the particular kinds of pavements to be broken; is that correct?

A. Yes, sir.

Q. What is your price per square yard on that sheet for breaking pavement where it is asphalt on brick on concrete?

A. .387.

[fol. 5155] Q. Where do you find that?

A. At the top.

Q. Well, that is your manual labor rate?

A. Yes.

Q. What is your machine rate?

A. .624.

Q. And what is your total?

A. .847—8.47.

Q. How do you get that; where is it?

A. 3.24 plus 5.23.

Q. Oh, that is $8.47 for 8.38 square yards of concrete—Mr. Hogan, I am asking you what your total rate for your labor and machine is per square yard for these various kinds of pavement.

A. 1.011.

Q. One dollar and one tenth per square yard?

A. Yes, sir.

Q. That is the rate for breaking asphalt on brick or concrete?

A. Yes, sir; I use that rate on the whole work.

Q. What is your rate?

A. That average——

Q. Just a minute, I will ask the question and then you answer it; what is your rate for breaking brick on sand?

A. I used an average rate for all the paving.

Q. You use the same rate for the brick, asphalt on brick on concrete that you do brick on sand?

A. Yes, sir, there is a wide variation in the cost of breaking pavement.

Q. I would think there would be.

A. And yet you get some concrete with two pavement breakers and two men on it, it won't average over four trench feet an hour. Get some other concrete to break and they will average thirty feet an hour. So you get a very wide range of breaking brick; you get a very wide range of breaking any kind of pavement; you may run into brick with tar joints which breaks up very easily; you may run into brick with cemented joints that you just have to cut it [fol. 5156] like concrete.

Q. At the commencement I asked you as between asphalt on brick on concrete and brick on sand?

A. Yes; well, I used the average rate for the whole thing. Your asphalt on brick on concrete—there is very little of it; there is eight square yards—8.38 square yards and I don't set up a separate one for that.

Q. Well, you have quite a bit of asphalt on concrete, haven't you, 2624 square yards of that?

A. Yes.

Q. And you have got that at the same rate as brick on sand, haven't you?

A. Yes, sir.

Q. Brick on sand, you have quite a bit of it, 5247 square yards, haven't you?

A. I used the average.

Q. Yet you charge as much for breaking that as you do asphalt on brick on concrete?

A. I used an average rate for taking up the pavement.

Q. Well then, you do not undertake to say that this rate

represents any particular one of those operations, do you?

A. No, but it would represent the average operation.

Q. Well now, will you furnish us some detail on how you got the average there you applied to each one of these and how you got the average?

A. Well, I will have to work that up for you.

Q. Please furnish it to us; I want to see it. Now, Mr. Hogan, on Sheet Number 9 of Exhibit Number 1, again, you show the cost of iron for an average manhole to be two dollars, don't you?

A. The cost of what?

Q. The cost of iron for the average manhole, $2.00?

A. Re-enforcing iron for the roof?

[fol. 5157] Q. Yes.

A. Yes, sir.

Q. That is all the iron you have got in your structure isn't it?

A. I have got frame and cover; they are made of iron.

Q. That is made of iron, but that is not structural iron, is it; it does not go into the construction of the manhole; that simply goes on top?

A. With cable lugs and cable hooks made of iron, machine bolts, washers.

Q. Well, what I am seeking to do, Mr. Hogan, is to ask about structural iron and compare your figures with what Mr. Allensworth shows here under railroad iron, angle iron and I beams. Now, your two dollar item is the only one you have which compares at all with Mr. Allensworth's railroad iron, angle iron and I beams, isn't it?

A. That is the only one I used; I did not use the railroad iron or angle iron or I beams.

Q. Mr. Allensworth, I believe shows $5.40 on each manhole and you show for $2.00; is that right?

A. Yes, sir, for the iron that goes into the roof.

Q. Well, all of this structual iron I have mentioned, this railroad iron, angle iron and I beams that Mr. Allensworth used, and your re-enforced iron for roof—yours is $2.00 and his is $5.39?

A. Those three items there don't come up to $5.00.

Q. What are they?

A. That is the railroad iron, the angle iron and I beams; be four dollars forty-seven cents for those three items.

Q. Well, what are his scrap iron down here at the bottom —93 cents?

A. I don't know what he would use this scrap iron for; [fol. 5158] surely not for re-enforcing the roof.

Q. You don't think that would be in the manhole at all?

A. They may be in certain kinds of manholes.

Q. You state you don't know what they would be used for?

A. That is in the roof, I don't see.

Q. This is not roof; this is an average manhole?

A. Oh, you are talking about the re-enforcing?

Q. No, I am talking about structural iron in that manhole.

A. You are comparing my re-enforcing iron in the roof against the iron that Mr. Allensworth has shown in his?

Q. Correct, but this is not limited to the roof.

A. Oh:

Mr. Thompson: If it is not, I don't see how you can compare it.

Q. Here is the whole picture of an average manhole and here are the items; I am trying to compare his items with Mr. Allensworth's items; I just asked him as a simple question if his was not $2.00 as against Mr. Allensworth's $5.59.

Mr. Thompson: Well, I don't see how you can compare two non-comparable items.

Mr. Calland: Iron is comparable with iron in my experience.

Commissioner Klinger: I understand Mr. Calland's question goes to the iron that goes into the——

Mr. Calland: Structural.

Commissioner Klinger. The entire construction.

Mr. Calland: Yes.

Commissioner Klinger: And the witness has been limiting his answer——

[fol. 5159] Mr. Calland: To the roof.

Commissioner Klinger: To the roof. The witness has not conformed his answer to the question. The question goes to the entire construction.

Mr. Thompson: My point about it all is that you can not ask a witness and compare figures for iron in an entire manhole that someone else gives for his figures for iron in the roof.

Mr. Calland: Well then, let him show wherein his exhibit he has any iron any place else than in the roof. I can not find it.

Commissioner Klinger: I thought the witness did not get the idea of the counsel's questions.

Mr. Calland: I am not comparing roof; I am comparing the iron in the whole outfit, except in the top. They both show they use a different price. Well, it speaks for itself. We will pass it if you can not figure it out.

Q. On your brick for this average manhole, you allow $22.99 worth of brick and Mr. Allensworth $25.39; is that right?

A. Yes, sir.

Q. Well now, on concrete for manhole floors and roofs you show on Sheet Number 11 of your Exhibit Number 4—I will turn to that—which is headed, "The cost of material for the average manhole." You show these costs for materials of $7.33 per cubic yard for manhole floors, $9.25 per cubic yard for manhole roofs, do you not?

A. Yes, sir.

Q. Did you make any investigation to see what the company spends for concrete for manhole floors, first?

A. I got some material pricees as of June 30, 1925, for [fol. 5160] Cleveland and vicinity and for Columbus and vicinity.

Q. Those were Bell Telephone prices?

A. No.

Q. I asked you if you made any investigation as to what the company was paying on June 30, 1925, for this concrete?

A. At June 30, 1925?

Q. Yes.

A. The company was having the bulk of its work done by outside contractors.

Q. Yes.

A. So that it would be useless going to them for prices.

Q. Well, would you have any idea in the face of your figures of $7.33 and $9.25 per cubic yard why the company would report in this case that its cost was $5.29?

A. For the roofs?

Q. For the concrete in manholes, in the average manhole?

A. I don't know; I have not seen that.

Q. Well, notwithstanding what the company may have shown its costs to be, you would still say $7.33 and $9.25; is that correct?

A. That would be what I would say it would cost June, 1925.

Q. Mr. Hogan, I want to straighten another matter out. At page 3707 of the record, you were discussing the matter of salvaging material in this paving program and down at the bottom of the page, you figured out that Mr. Allensworth had allowed $1.52 for salvage in the matter of brick pavements and you made this comment in reply to your counsel's question. "That is to say more than the first cost of the bricks?" And you said, "Yes, sir."?

A. Did I say "Yes, sir."?

Q. Yes, sir, I am reading from the record, yes, sir, you said, "Yes, sir." I am not questioning the figures, Mr. [fol. 5161] Hogan, if that is bothering you; I just want to get your idea?

A. On that, I should say so, it appeared to me that he allowed a great salvage.

Q. Yes, you give the price of bricks and you said that that would be greater than the first cost of the bricks. Now, is it your idea that in figuring salvage of these bricks, that they should only be figured at the cost of the bricks on the brick makers' yard or shouldn't they be figured on the basis of the cost on the job?

A. You mean the new brick?

Q. Well, you are figuring what some bricks that have been salvaged are worth, aren't you?

A. Yes.

Q. What are you giving the figure at, the basis of your figure, are you making it the value of those bricks up at the brickyard or are you making it the cost on the job?

A. The cost on the job?

Q. Well then, it might very well be that the salvage value would be more than the cost of the brick when you add on freight, hauling and distribution?

A. What I had is the price on the brick delivered.

Q. Is that what you mean in this?

A. The cost delivered on the job.

Q. When you say first cost, you mean cost f.o.b. the job?

A. Yes, sir.

Q. And the prices you gave there were prices f.o.b. the job?

A. Yes, f.o.b.; four cents for the four inch brick or five cents for the five inch brick or about $1.25 average per square yard.

Q. Are all of your prices figured——

A. F.o.b., yes, sir.

[fol. 5162] Q. F.o.b. the job?

A. F.o.b. the job, yes, sir.

Q. At any rate, you agree with my suggestion that the salvage should be figured on the basis of the brick on the job, rather than the price on the brickyard, don't you?

A. Yes, sir.

Q. At Page 3,712, Mr. Hogan, you were discussing another of the things in which you said Mr. Allensworth made a mistake and you point out what you say is an error in Mr. Allensworth's detail of labor costs, in that he failed to expend the cost of one tile layer, referring, I believe, to Allensworth's cross-examination, Exhibit Number 11?

A. Did I give you the page of that?

Mr. Burr: 24.

Q. Page 24; now, you turn to that, please?

A. Yes, sir.

Q. Did you make any check of any kind to find out whether that was a clerical error in the detail or whether it was carried into his final result?

A. On Page 6—that is very close to the end of that Exhibit?

Q. Page 6 of Cross-examination, Exhibit Number 11.

A. Number 11. Now, there are two sixes in this, in this Exhibit, but on Page 6 near the end of the book, he shows, "Laying of conduit, single tile .013 per duct foot, which is the calculation worked out with that omission quoted on Page 24.

Q. Yes, but I am asking you whether that apparent omission is carried on through and had any effect on his final figures in this case?

A. Well, we would be glad to tell——

[fol. 5163] Q. Well, did you try to find out; did you make any check to find out?

A. Let me see the final figures that I have——

Q. I am not asking you whether it is or not; I am just asking you whether you made out any check to find out whether it was or not.

A. Yes, I made a check to see whether it was or not.

Q. Well, what did you find out?

A. I checked as far as I could, but I did not find out whether it did or whether it didn't have any effect on his

total costs, because I didn't find out definitely that he had that error all the way through.

Q. Set up here as an error although you do not know whether it was, in the final result?

A. I did not check; I did not check—I was checking the whole details, which is supposed to be the detail of his final there——

Q. I am asking you whether you made any check of this to find out whether it affected the final result?

A. I could not tell unless I went to Mr. Allensworth and inquired.

Q. You did not do that, did you?

A. No.

Q. He might have told you, mightn't he?

A. I don't know.

Q. It was his detail?

A. I don't know whether he might have told me or not.

Q. Isn't it true; you could tell somebody if they asked you that question about your detail?

A. If I had set it up, I think I could.

Q. Well, you did not ask him whether or not it did, to find out?

A. I didn't know.

[fol. 5164] You didn't ask anybody else to do it for you?

A. No, sir.

Q. Mr. Hogan, here is another interesting situation, I wish you would straighten out on this same page, 3712. You point out another so-called error or omission in Mr. Allensworth's figures, and in that, he had failed to allow enough hours for his men loading and unloading the trucks. Now, will you please find that place in his Exhibit Number 11—I don't believe he gave the page here that time.

A. Will you read it?

Q. This is Page 1 prime—whatever prime is.

A. That is the way they are marked.

Q. Who marked them?

A. We did not. You did, I guess.

Q. They came to us that way. We did not make these cross-examination exhibits and never even seen them yet, haven't had a chance to check them. You made them up after detail furnished; we haven't seen them or checked them.

Mr. Burr: I perhaps should explain that these exhibits were made up exactly the way Mr. Allensworth furnished

them to us, and because as furnished to us, they contained a similar page numbering, that is to say, the number appears used there twice, took the liberty of putting a prime after a number where it occurred the second time in order to distinguish it from the first.

Mr. Calland:-I didn't intend to start an argument; I didn't know what it was; I was trying to find out.

Mr. Burr: Well, I intended to make that explanation when we started in with Mr. Hogan's testimony and I am not sure but what it was made.

[fol. 5165] The Witness: Will you read my testimony on that, Mr. Calland, please?

Mr. Calland: Yes, Page 3712: "What do you find in respect to his cost for hauling material?" "Answer: Mr. Allensworth's cost for hauling material, cross-examination Exhibit 11, Page 1 prime, provides for a truck working nine hours per day, and four men loading and unloading the truck. Instead of showing payment for the four men for nine hours a day, his costs provide that they shall be paid for only six hours out of the nine hours per day for the truck."

Now, I want you to explain that.

The Witness: That is on Page 1 prime of Mr. Allensworth's cross-examination Number 11.

Q. Right.

A. Five ton truck costing $2.50 per hour. Four trips per day, $5.625 per trip, includes unloaded from cars, hauling it to the job, unloaded and piled——

Mr. Burr: You are now reading from what?

The Witness: Mr. Allensworth's cross-examination, Exhibit Number 11, Page 1 prime. The average loading and unloading time, four men one one-half hours each or six man hours 3.351 plus the truck cost 5.625, or a total of 8.9765.

Q. It is right so far, but I want you to explain why he has not allowed enough time for the men unloading and loading this truck?

A. Well, I can't answer for Mr. Allensworth.

Q. I am asking you to look at his exhibit; you looked at it and made this comment—said he failed to include enough hours. Now, I want to know why. You have got it once; can't you get it again?

[fol. 5166] Mr. Burr: You mean how he arrived at it?

Q. Yes, sure.

A. He states pretty clearly four men one one-half hours or six man hours, a truck 2 man hours per trip, in figuring so much per trip.

Q. And your interpretation of that is that he has not allowed enough man hours, is that right, enough time for the men?

A. He has allowed one and a half man hours each for four men and two hours for the truck.

Q. Yes; well, don't the truck have to go some place with this tile after it gets it unloaded?

A. Men do, too.

Q. What do the men do, ride the truck?

A. You get they do.

Q. Ride back and forth on that truck?

A. Positively.

Q. Why?

A. You can't set up men at both ends, one to load and one to unload without running your cost up; when it is loaded each goes on the car to a delivery; the truck is sent out and delivered.

Q. One truck—only one?

A. One or more, depend on their time they have to unload the cars, one or more trucks is sent out to unload the car, and deliver the tile along the street or at convenient locations, some close to the job. That is all done in advance, before the work is started.

Q. And you are going to have four men to ride this truck back and forth and unload and handle it, is that it?

A. I would have four men—I would have two men and driver on this.

Q. To unload and handle, too?

A. Yes.

Q. Just two men and driver, and you would have them [fol. 5167] ride back and forth?

A. Yes, sir.

Commissioner Geiger: Is that the economical way to handle your loading and unloading on the truck?

The Witness: To send the driver with the truck and have him come back——

Commissioner Geiger: Well, there is nobody there to unload or pass the tile—well, have been there to unload for more than one truck.

The Witness: Sir?

Commissioner Geiger: Have men there to unload for more than one truck and keep the loaders loading all the time and haulers hauling all the time, and the loaders unloading all the time.

The Witness: That depends on how many cars are shipped at one time.

Q. The more you have the more you would need at that time to save money?

A. No, there are a lot of other considerations come into this: The length of time you want to have your tile distributed along the street before you are able to do your work; the shipping of the tile from the factories has considerable to do with it, whether they ship in one car or two cars or whether it comes in in trains.

Q. Well, we have been thinking about trains on a reconstruction job, wouldn't we, on a hauling of tile for the telephone company?

A. I doubt that very much if you would have more out along the same line than what you are getting now.

Q. Do you mean the Ohio Bell Telephone Company today is building as much underground conduit as you would be [fol. 5168] building if you are reproducing this property?

A. No.

Q. Why, certainly not.

A. No, they are not building as much, but they would not have to increase by a very large amount to do as much. Their gross additions to plant, outside plant, last year, ranged about six million dollars, and we are discussing a plant value of about sixty-five million dollars.

Mr. Burr: You are referring to the conduit now?

The Witness: I am referring to the entire outside plant.

Q. Going back to the original question, if you would follow the plan outlined by or suggested in turn—yes, suggested by Judge Geiger of having a crew at the car, and these trucks hauling in and going out and being unloaded and coming back, then under that plan, there would be nothing wrong with Mr. Allensworth's figures, would there?

A. Yes, there would. You would have to take into consideration the distance from the car to the job; you would have to take into consideration the distance from the——

Q. Wait a minute, Mr. Hogan, meet the question; I did not ask you whether Allensworth's plan was the correct plan, I asked you if that plan were followed, then your comment about him not allowing enough time for the men would not apply, would it?

A. If this plan were followed, this plan that you are suggesting is not a practical plan.

Q. I am not asking you that; I am asking you if that plan were followed—practical or impractical—if that be the plan of operation, then you would not have as many man hours for your men as you would have for your truck, would you?

[fol. 5169] A. If you are going to have men at both ends?

Q. Yes, sir.

A. I would want to see what your average haul is on this.

Q. Mr. Hogan, just a minute, I am not asking you whether that is a correct plan or it is a proper plan, an economical plan or anything else; I am asking you if that plan be followed if it is not a fact that in unloading you would have less man hours per day than you had truck hours—wouldn't you?

A. No, no.

Mr. Burr: Just a minute, when you interrupted him, he started to say——

Mr. Calland: It is not of very great importance.

Mr. Burr (continuing): "We have to know the length of the haul" and you interrupted him and would not let him answer.

Mr. Calland: That is as simple as A, B, C.

Mr. Burr: No.

Q. I will asked him another question and see if it is not as simple as A, B, C. You are going to have the men ride the truck?

A. Yes, sir.

Q. And Mr. Allensworth is going to have them stay at the car, unloading all the time?

A. What are they going to unload in?

Q. In truck.

A. How many trucks?

Q. I don't care how many; enough to keep the thing moving all the time, whatever it will take to keep these men busy?

A. You can not balance the progress of a job that way, Mr. Calland.

Q. Well, maybe you can not, but I am not a contractor.
[fol. 5170] A. Well, I can't, and I am a contractor; I could not balance the progress of a job when I have men located at the receiving end and men located at the sending end and have no lost time between them.

Q. I didn't say there was no lost time; what I said was that you would not have men unloading this truck while it was going along the street, would you, so that the truck is working hours when the men are not working, loading or unloading, bound to be.

A. Oh, that is right; the truck spends some time traveling when the gang is not working.

Q. The only difference is you are going to pay these men for riding the truck back and forth and Mr. Allensworth is not?

A. There is more than that; if he don't pay them for riding back and forth, he has got to pay that lost time in doing something else or doing nothing else.

Q. That may be so, and I am not arguing about that, but the fact remains that if that plan be followed, you are bound to have a difference in the man hours of loading and unloading and the time of your truck hours, and if that is not clear to you, let that go?

A. That is not practical.

Q. It is not a question whether it is practical. I will let that go right there.

Commissioner Geiger: Suppose we go to something else, gentlemen.

Mr. Calland: I am going right now.

Q. On page 3723, you went into the matter of mixing concrete, and you say 250 cubic feet per day is a good day's work?

A. Didn't I also say for that sized gang, Mr. Calland?

Q. I think so; I think you did; you did.
[fol. 5171] (Previous question read.)

Mr. Thompson: 250 to 300.

Q. 250 to 300; make that correction, 250 to 300 is right. In making that estimate, Mr. Hogan, what size mixer are you figuring on?

A. Three one-half foot.

Q. What do you mean by three one-half foot?

A. Three one-half cubic feet mixer.

Q. Cubic feet?

A. Yes.

Q. Will you tell us the source of your sand prices given by you on Page 3724 and which you use in making up your appraisal?

A. 3724, didn't I?

Q. You told us what they were, but I asked you where you got them; we want to know the source of them?

A. Just the sand price?

Q. Sand, yes, sir.

A. Truckload delivered prices average haul?

Q. I don't care to have you repeat prices, Mr. Hogan; that is already in the record. I want to know the source.

A. Oh, I got from the Cleveland Builders' Supply and Truck Company.

Q. That is at Cleveland, Ohio?

A. Yes, sir.

Q. Is that where all your prices came from?

A. No, sir.

Q. You have some other prices?

A. I got some prices for Columbus that checked with Mr. Allensworth's on a per ton basis rather on per yard basis.

Q. Well, I wanted to know where you got those prices?

A. Well, those prices came from some building concern down here in Columbus, to purchase——

[fol. 5172] Q. Can't you tell me where it was?

A. I think it was the Columbus Builders' Supply Company; they were selling to the American Cable and Conduit Company.

Q. You got those from the American Cable and Conduit Company?

A. Yes, sir.

Q. On Sheet Number 20 of Exhibit Number 2, which is the unit cost detail for your main underground conduit, and has to do with the iron pipe, iron pipe conduit?

A. Yes, sir.

Q. And whatever iron pipe is used for. I notice that you quote price on all of this wrought iron pipe?

A. Yes, sir.

Q. And I believe you stated you did that because it was customary for telephone companies to use wrought iron pipe?

A. That is right.

Q. For what do they use this pipe—well, first, why do they use wrought iron pipe instead of steel pipe?

A. On account of its rust-resisting qualities.

Q. What is the pipe used for?

A. Underground conduit.

Q. How is it used in underground conduit?

A. In some places, it is put in in place of tile, across bridges, some place into buildings for subsidiary; some places it is turned up a pole for feeding aerial cable.

Q. And you say that as of June 30, 1925, all of that iron pipe in the Bell Telephone Company's plant was wrought iron *plant;* is that right?

A. Yes, sir, so far as I know.

Q. How far do you know?

A. I inquired from them what kind of pipe they had, and they told me they had black wrought iron pipe.

Q. Whom did you ask?

A. Their engineers.

[fol. 5173] Who?

A. Mr. Schneider.

Q. Who else did you ask?

A. Well, there were other engineers there when we talked about it.

Q. Is he the one that made the answer to you about it?

A. I am prettty sure.

Q. Well, do I understand you then if we would go out here and take a look at one of these risers on a pole around Columbus, we would find it wrought iron?

A. Probably would.

Q. Probably would?

A. Yes, sir.

Q. That is, you think it would because Mr. Schneider said so?

A. Well, he said he used that in his inventory.

(At this point a short recess is taken.)

Q. Mr. Hogan, just to clear up one thing so that we will be sure that we understand you, at least so far as the average manhole is concerned, you proceeded to make an estimate of the cost of what you thought would be the proper manhole under the A. T. & T. specifications; is that correct?

A. No, I did not use the A. T. & T. specification manhole.

Q. You did for some items in it, did you not?

A. I used the duct shields, plugs, cable racks, because it is common to put them in the holes.

Q. Ladders?

A. Common practice, yes, sir, ladders, I used the ladder for every hole; it is a common practice to put them in.

Q. Is that A. T. & T. specification, do you know?

A. I think——

Q. The ladders?

A. I am pretty certain there is a specification on that.

[fol. 5174] Q. Will you tell us the source of your price for wrought iron pipe?

A. The William Patterson Company in Cleveland.

Q. The only one you got quotations from?

A. Also the American Cable & Conduit, the purchases that they made.

Q. From whom did they buy them?

A. The black wrought iron pipe, they bought some from William Patterson and they bought some in Toledo.

Q. Do you know from whom?

A. I could not tell you. That 79 cents includes the cutting, threading and coupling.

Q. Cutting, threading and coupling?

A. Yes, sir.

Q. That is, you mean the coupling that comes along with the pipe?

A. Yes, sir.

Commissioner Geiger: Where do you couple the pipes; where would you couple them ordinarily if you are going to use it in what points, going up a telephone pole?

The Witness: You may use it in long lengths over bridges; you may use it in long lengths where you would have to couple together ten or fifteen sections, as entrance to buildings; you may use it in long lengths as connection between a manhole and a pole; you may use it in long lengths in——

Commissioner Geiger: All right, that is enough; that is enough.

Q. And your information as to all of these risers and so forth on the poles being wrought iron, you say you got from the company's engineers?

A. Yes, sir.

Q. Did you ask them about the property generally or just about some locality?

A. No, about what kind of pipe they used in the property generally.

Q. And did that engineer tell you that the risers on [fol. 5175] the poles in Columbus are wrought iron; did you so understand him?

A. I understood that all pipe was black wrought iron pipe.

Q. Well, if it should turn out that it is not, does that make any change in your figures?

A. I don't see how it would turn out sufficiently to make any appreciable change in the figures, because that——

Q. Well, depend on how much of it is not?

A. Because that part which is above the ground is a very small portion of the——

Q. I am talking about the whole thing, underground as well as above the ground.

A. I think it would be a very difficult job to find out whether that is all black iron——

Q. Suppose I would ask the company and the company says it is not black wrought iron?

A. Yes, sir, if the company says it is not black wrought iron, that would make a difference in my figures.

Q. At Page 3726, Mr. Hogan, you mention as a part of your gang,—I think you set it up in your Exhibit—at least at that page—you mention it—the fact that you would have among the employees of this gang, a nightwatchman, is that right?

A. Yes, sir.

Q. What becomes of your earlier statement in this record that all of this conduit work costs more money because it has to be done at night?

A. All of it costs more money.

Q. I understood you to say that the conduit work put down at night in order to keep the street free for traffic according to city requirements——

A. I wish you would read that from the record.

[fol. 5176] Commissioner Geiger: I don't think he said all of it.

Chairman McCulloch: In such as Cleveland.

The Witness: I said in the business centers.

Q. Where do you find it?

A. And on streets where there was very heavy traffic.

Q. And you limited it to that?

A. Yes, sir.

Q. That is the only place where it would have to be done at night?

A. There is a very large area in Cleveland that would have to be done at night.

Q. How about Columbus?

A. I haven't had much experience in Columbus; there is only about seven or eight per cent in Columbus and there is about fifty-eight per cent in the Cleveland area.

Q. What do you include in that?

A. Why, East Cleveland, Shaker Heights, Cleveland, Cleveland Heights, Lakewood and Cleveland proper.

Q. Cleveland Heights, Rockey River; all of them make them work at night?

A. No, but the great amount of this conduit is in the business section; there is a great amount of this conduit in the business section.

Q. In Cleveland?

A. Yes, sir.

Q. That is the only place where they make you put it in at night?

A. I have heard of them being required to do night work in other cities, but I don't know personally.

Q. And you think it would be necessary to have a carpenter with each one of these trench gangs?

A. A gang with the size of that, yes, sir, sixty-six or sixty-five men gang, I think it would be necessary to have a carpenter.

Q. It is pretty rough work they build, isn't it?

[fol. 5177] A. They build bridges across trenches.

Q. It is rough work, isn't it?

A. Yes, sir.

Q. Any man that could use a saw and drive a nail could build one, couldn't he?

A. I don't think so; I had such a man attempt it out here on Taylor Road and a five ton truck went through it loaded with oil and we had to spend quite a little money to get that truck out of the ditch.

Q. That was because of the kind of lumber he used?

A. No, sir, it was because of the way it was constructed. We had brand new lumber.

Commissioner Geiger: I don't believe it avails us anything for the witness to go into particular questions, particular instances like the matter he just testified to, because the value of his testimony is general and not in particular instances.

Chairman McCulloch: Unless the purpose is to test him.

Commissioner Geiger: Well, he is volunteering it himself.

Chairman McCulloch: Oh, not volunteering, no.

Q. Well, do foremen ever pay any attention to these things, the kind of bridges they are building, whether it is being done right?

A. The foremen are supposed to supervise all of the work, the foremen and sub-foremen.

Q. The foremen did not have it done?

A. Oh, it is a very easy matter for somebody to throw up a bridge before the foreman has ever a chance to check the bridge.

Q. You have plasterers included in this conduit gang; how much of the multiple duct tile of the Ohio Bell Telephone Company as of June 30, 1925, is plastered?

[fol. 5178] A. It has been the specification to plaster the joints of ducts for over twenty-five years to my knowledge.

Q. That is all you know about it, that that has been a specification?

A. I have seen it going in.

Q. Of course, I asked for the Ohio Bell Telephone Company.

A. Everyplace I have worked.

Q. I asked for the Ohio Bell Telephone Company?

A. It would not be practical to build it without it.

Q. Not whether it is practical, do you know whether the Ohio Bell Telephone Company has it?

A. I have seen—oh, I could say perhaps several miles of Ohio Bell Telephone Company conduit uncovered in

several of the big cities of Ohio and they all had plastered joints.

Q. What do you mean by a plastered joint?

A. That is a joint made of one part cement, three parts sand, and plastered around the joint for extending back over the scarrifications of the tile.

Q. How is it put on. with a trowel?

A. Usually put on with a trowel.

Q. Did you ever see any of this cloth, that is cement cloth wrapped around it?

A. No, sir.

Mr. Burr: Are you referring to cloth or gauze?

Q. Cemented cloth, that is cemented and has a cemented preparation and they went it and put it around the joint, you never saw that?

A. I never saw it.

Q. Ever see it in any specifications?

A. No, sir.

Q. Have you ever examined the Bell specifications on that particular feature?

A. For cement cloth?

Q. Yes.

A. I have never seen anything like that in the Bell [fol. 5179] specifications. Now, perhaps this is what you have in mind, Mr. Calland: That when the tile is laid, they have used at different times, burlap, cheese cloth and muslin at three different stages of the business. They wet those, wrap them around the joints and then cement the joint over that, over the wet cheese cloth or muslin or burlap, whatever they use. That is the Bell specification.

Q. Well, as a matter of fact, don't they dip this thing in cement and then put it on and the cement hardens?

A. No, they never did anything like that. Years ago, they used to require them to dope burlap in a thin grout of cement, and then they put the plastered joint over that.

Q. All right. Then in this cheese cloth you refer to, that goes around and then they plaster over that?

A. They plaster over that, yes, sir.

Q. At Page 3731, you produced some figures in which you showed Mr. Allensworth wrong in his calculation because he failed to take proper notice of the load limitations on the road, didn't you?

A. Are you referring now to my testimony?

Q. Yes.

A. Will you read it kindly to see where it is?

Commissioner Geiger: Well, it is where you said that the——

Mr. Calland: Too much load on the truck.

Commissioner Geiger: The dirt coming out of the trench would be fifty per cent more than it would be and he measured it as it would be in the ground, that is what you referred to.

Mr. Burr: Can I shorten the record—I have it here [fol. 5180] Commissioner Geiger: Yes, anything to speed up work.

The Witness: "Four cubic yards of solid earth equal five cubic yards of loose earth"—that should be six.

Mr. Thompson: No, it is about the permissible load on the Ohio roads.

The Witness: That should be corrected.

Mr. Burr: Well, what should be corrected?

The Witness: That five, you see four cubic yards of earth equals five cubic yards——

Mr. Burr: Then do I understand that Page 3731 of the record where it says "Four cubic yards of solid earth equal five yards"—the five should be six?

The Witness: Six, yes, sir.

Mr. Calland: It is six on my copy.

Mr. Burr: It is five here.

Mr. Calland: It is six as clear as it can be here.

The Witness: Well, what you want to ask me about, the loading, Mr. Calland?

Mr. Burr: Go ahead.

The Witness: Want me to read that?

Mr. Burr: Well, they are asking you about that. There is your testimony. Is there a question pending?

Mr. Calland: Yes, I am asking him whether he used that as one of the bases for saying Mr. Allensworth's figures couldn't all be right.

The Witness: Four cubic yards of solid earth equals six cubic yards of loose earth or excavated earth. Loose earth weighs fifteen hundred to thirty-one hundred pounds. Taking the average of these two amounts, it would be more [fol. 5181] than 2400 pounds. Six cubic yards at 2400 pounds per cubic yard would make a total of 14,400 pounds

or more than seven tons. Five ton truck itself would weigh more than ten thousand pounds, so that the total is 24,000 or 4,000 pounds over the minimum truck and load weight permitted in Ohio, and for certain periods of the year this goes down to 16,000 pounds for truck and load.

Q. What do you say as to whether you did use the load limitation as the basis for your calculations that Mr. Allensworth was wrong?

A. No, I used his cubic yards of earth loaded and all, as shown in this Exhibit Number—Cross-examination, Exhibit Number 11.

Q. Well, what do we understand by this last part when you discussed the load limitations; why did you refer to that?

A. On Page 3 prime, disposing of excess dirt requires extra trucks as follows: Five ton truck, four yards per load, nine trips per day or thirty-six yards per day. A truck of this kind would cost $2.50 per hour, $22.50 per day, or .02315 per cubic foot.

Q. Well, what has that got to do with load limitation?

A. Well, now, you are discussing just the load limitation?

Q. I want to know why you refer to load limitations here—what you meant by that; did you mean to say that Mr. Allensworth had used figures here he should not have used because of the load limitation?

A. I say if you put four yards of solid earth on to a five ton truck, you exceed the load limitations in the State of Ohio.

Q. Do these load limitations apply in the city?

A. Most cities apply them.

[fol. 5182] Q. What cities apply them?

A. Why I would say Cleveland.

Q. On all streets?

A. I don't know.

Commissioner Geiger: Well, the load limitation is a weight limitation, isn't it?

Mr. Calland: Yes, weight limitation.

Commissioner Geiger: Well, it would not weigh any more after it came out of the trench than when it was in the trench?

The Witness: Well, in order to get to it, you would have to apply the weight of four yards, the weight of solid earth which is more than is loose earth.

Commissioner Geiger: Well, it would not weigh any more after it came out of the ground than when it was in the ground.

The Witness: No, sir, on the cubic yard basis, we have six yards, rather than four.

Commissioner Geiger: Well, it would not weigh any more in six yards than if it were four?

The Witness: No, six yards of loose earth, plus the truck weight, you would have a weight less than——

Commissioner Geiger: Well, how about four yards of earth in the ground, you would have the same thing?

The Witness: Yes, sir.

Commissioner Geiger: The same weight exactly.

Q. Now, my question is, what load limitations you are referring to.

Commissioner Klinger: You are referring to the Ohio Statutes, are you?

[fol. 5183] The Witness: Yes, sir.

Q. Do they apply in the cities?

A. Why, the cities in general——

Mr. Burr: Isn't that a question of law, Mr. Calland?

Mr. Calland: Well, he seems to have used it. I want to see what he means by it.

The Witness: We have been picked up in the cities for exceeding the load limits and had to pay.

Mr. Calland: Not under the state statute.

The Witness: I think so. Now, whether the cities have passed ordinances adopting the state statutes or not, I am not sure.

Mr. Calland: All right, we will pass that.

Q. On Page 3735, Mr. Hogan, I have got a mental picture from your testimony of your gang of sixty men engaged in trench work, dropping their work, whatever they were doing, and all rushing back to some point to stop a break in a water pipe, and I just wondered what they would do when they got there?

A. Sixty men?

Q. Sixty men.

A. Will you read that out of the testimony, please.

Commissioner Klinger: Not for the record, but for my own information, what is the maximum load?

The Witness: There are signs on the road.

Mr. Calland: Seven and a half now—20,000 pounds isn't it?

Mr. Burr: Twenty thousand pounds and goes down to 16,000 at certain periods of the year.

Mr. Calland: 16,000 pounds at certain periods of the [fol. 5184] year; that is on roads outside of the cities?

Mr. Burr: Well, I don't accept the construction of the statute.

Mr. Calland: We will argue that out.

Q. Now, you asked me to read this.

Commissioner Klinger: I had in mind that it was twenty-eight thousand.

Mr. Calland: No, it is not that high.

Q. At Page 3734, Mr. Hogan, you were asked this question: "Yes. Now, when the trench is filled by rain or breaks in water pipes, what happens then?" "Why, work is stopped on the front end of the trench and tile layers and plasterers and concrete workers are all thrown in to repair the break."

A. That is right.

Q. What are they going to do?

A. If there is sufficient work for them to do, they all work on it; if there is not, only part go back to it; there is quite a lot to do when you have a water main break.

Commissioner Geiger: Well, how often are you liable to have a water main break?

The Witness: Not very frequently.

Commissioner Geiger: Once a month?

The Witness: Perhaps once or twice a month.

Q. Considered somewhat of a disgrace for a foreman to break a water main?

A. How?

Q. It is considered somewhat of a disgrace for a foreman to let a water main become broken in digging a trench?

A. I never heard of it.

Q. You never heard of anyone being fired for breaking [fol. 5185] a water main?

A. I never heard of anyone being fired for breaking a water main.

Q. At Page 3742 and following, of the record, you take up the matter of pole labor costs, and you select as an example a thirty foot Class B pole, you testify that one man would only dig two holes for that kind of a pole per day?

A. Yes, that is right.

Q. How big around is this thirty foot Class B pole?

A. I don't have a copy of the specifications with me, but there is specification on it that shows the circumference and diameter six feet from the ground and also five inches from the top.

Q. Well, how big is the hole to put it in?

A. For thirty foot Class B?

Q. Yes.

A. I would have to have the——

Q. Well, what do you say?

A. The diameter of it—I have not got that here with me.

Q. Can you tell from your detail how big this hole is that you will only dig two a day of?

A. I would say roughly about—that the pole would be about—if it is an eastern feeder, or a northern feeder, say that a thirty foot would have a butt about nineteen inches in diameter and that you would have to have a hole about twenty-four inches in diameter and for a thirty foot five one half feet in depth.

Q. Five one-half feet deep and two feet in diameter?

A. About that, yes, sir.

Q. And how many hours a day does that man work?

Commissioner Geiger: Two feet is about that much, isn't it? (Indicating.)

[fol. 5186] The Witness: Yes, sir.

Commissioner Geiger: Do you think they dig those post holes that broad for the ordinary setting pole?

The Witness: For telephone pole?

Commissioner Geiger: Yes.

The Witness: Yes, for thirty foot; when you get into the thirty feet class, they are larger, you are getting into pretty thick pole at the butt.

Commissioner Geiger: I know.

The Witness: And eastern cedars are noted for very wide butts as compared with western cedars or with chestnuts.

Q. How many hours a day is this man going to work?

A. Eight hours a day.
Q. How much digging would that be per hour?
A. Well, you can figure that out.
Q. You figure it out?
A. How?
Q. You figure it out.

Commissioner Geiger: Do you have now in your modern machinery, machines to dig posts holes or is it customary?

The Witness: There has been some experimenting done with them and there is some claim that they have pole hole diggers that will save labor and save costs on digging pole holes. I don't believe that they are in general use yet as at the time I left the Bell system, the company I was with—a very large company—still had not approved them, or had not accepted them as being satisfactory.

Q. Be a foot and four inches an hour, wouldn't that, Mr. Hogan?

A. Well, it is eleven feet deep; that is five one-half feet deep for each hole; that would be eleven feet deep divided [fol. 5187] by eight hours, be about just about what you say.

Q. A foot and four inches an hour?
A. Yes, sir.
Q. This hole two feet wide?
A. Yes, sir.
Q. That is all they can do?

A. That is a good, fair average, I expect, from workmen, considering all kinds of soil, and all kinds of weather conditions.

Q. Well, are these soil and weather conditions you have spoken about now, and several other times, peculiar to Ohio?

A. No, sir.
Q. Or to the Ohio Bell Telephone Company?

A. I would say with regards to rains, that some States have an average rainfall greatly in excess of other states. As far as cold weather is concerned, some states have frost in excess of other states.

Q. Well, your answer is that it is not peculiar to Ohio or the Ohio Bell Telephone?

A. No, sir.

Q. Bad weather or otherwise, except possibly in Southern California; we are not operating there.

Mr. Thompson: I was going to say that California's would be——

Mr. Calland: I say, outside of California.

Q. Let us go to pole setting for a moment. Mr. Hogan, you selected as an example there in your criticism of Mr. Allensworth's set-up, an eighteen foot pole, and say that fifteen to twenty poles per day would be good performance for a five man gang?

A. Yes, sir.

Q. What does an eighteen foot pole weigh?

A. You say what is an eighteen foot pole?

[fol. 5188] Q. What does it weigh, about?

A. I think the weights are in there, in one of the exhibits.

Q. In one of the exhibits; can you tell us which one of those it is in, quickly?

A. Be in Section 12 of Exhibit 8, an eighteen foot pole 155 pounds.

Q. How far does it extend *south* of the ground after it is planted?

A. Why, it will extend fourteen feet out of the ground; I am pretty certain the standard specification depth of an eighteen foot pole is fourteen feet.

Q. Just an overgrown post, isn't it, Mr. Hogan?

A. I don't know what you want to call it; it is too heavy for me to carry around many of them.

Q. How many would it take to put—of a five men gang—of these in a hole?

A. If you put a five men crew working, you would take all of them.

Q. The foreman would stand for that?

A. Yes, sir, they would continue right out and they would scatter out, some of them digging holes and some of them putting them up.

Q. They would all have to get around them?

A. No, I would not think it would take five men necessary to raise an eighteen foot pole, just up end it.

Q. You put emphasis on that performance of that size pole-setting a day by discussing the number of miles that the men would have to walk, didn't you?

A. Yes.

Q. Did you ever see a mile of those poles in Ohio at once place?

A. Eighteen foot poles?

Q. Yes.

A. I don't know how much they had in Ohio.

Q. Did you ever see a mile?

A. I never checked the Ohio Bell plant completely.

[fol. 5189] Q. What do they use those eighteen foot poles for?

A. Telephone lines.

Q. I know, but why do they use it; you don't see many of them, do you?

A. Why, in running, I noticed there are quite a few eighteen foot poles.

Q. Do you know how many the company has today?

A. Small, unimportant toll lines.

Q. Do you know how many the company has in its whole set-up?

A. I could not tell you.

Q. Do you know it only has 573 of them?

A. I don't know.

Q. Well, it is a fact, isn't it, Mr. Hogan, that they just don't build telephone lines continuously with eighteen foot poles; now, isn't it true; if they did, they would have more than 573 in Ohio, wouldn't they?

A. I have seen continuous lines for several miles built of eighteen foot poles.

Q. In Ohio?

A. No.

Q. Not in the Ohio Bell system anyhow, did you?

A. No, sir.

Q. They are used occasionally for special purposes or special places to run over to a man's house or something?

A. They might be used to carry a toll circuit between towns.

Q. Well, they might be, but are they in Ohio?

A. I don't know about Ohio.

Q. If they used them so often, they would want more than 573, wouldn't they?

A. 573—that would make about——

Q. Couple of miles?

A. About twelve miles.

Q. Yes, about twelve miles of line the way you are figuring it. Now, you used in a number of instances different [fol. 5190] wage rates than were used by Mr. Allensworth, didn't you?

A. Are you on conduit now, or are you on the other?

Q. Either one?

A. I think so.

Q. Did you make any investigation to determine whether or not the figures used by Mr. Allensworth, or by you, checked up with the reports of the Bell Telephone Company to this Commission as to the wage rates they were paying in 1925, June 30th?

A. I had the Ohio Bell Telephone Company give me their prevailing wage rates as in 1925.

Q. Were they reported to this Commission?

A. I don't know for sure, but they gave me their prevailing wage rates. Now then, there was a big increase in their force between 1924 and '25.

Q. Well, we are talking about June 30, 1925?

A. All the wage rates that I used in my set-up were based on a fairly high average performance that I would expect to get from men who were seasoned in the business and didn't need much instructions.

Q. Let us shorten that up; I did not ask you about performance or anything else, I asked you one simple question, whether you know whether the figures used by Mr. Allensworth agree with the figures filed by the company with this Commission. Now, if you don't know, say, "I don't know."?

A. I don't know; I never checked that.

Q. That is all there is to it. Would you say that the company's figures were wrong if they are filed with this Commission and they ought to be sometime else in this appraisal?

A. If I would say if I used the company's figures and there was a lower performance——

[fol. 5191] Q. I am asking about the company's figures filed in this case?

A. I would not say they were wrong.

Q. Filed not in this case, but with this Commission?

A. (No response.)

Q. Now, let us go to this question of this depth of trench, Mr. Hogan, and straighten that out if we can. Page 3713 I think is where that occurs. Now, what is the first thing you put in this conduit trench; start at the bottom and build it up; what is the first thing you put in?

A. After it is graded, the first thing that goes in is the four inch concrete base.

Q. Four inch?

A. Yes, sir.

Q. All right, and what comes next?

A. The next thing that goes in is you have a choice of——

Q. Seven duct trench, multiple duct trench we are talking about.

A. Yes, sir.

Q. On the average.

A. On the multiple you would have two choices on it; one would be a three duct multiple laid flat——

Q. And how wide would that be?

A. With four duct thirteen inches wide, four one-half inches high.

Q. You mean the three duct tile would be how high?

A. Four one-half inches high, thirteen inches wide.

Q. All right, now, what do you put on top of that?

A. Then you would put a four duct multiple on top of that?

Q. And how wide is that?

A. To make your seven duct—you say how wide?

Q. Yes, how much more space would you use?

A. A four duct multiple is nine inches in each direction.

[fol. 5192] Q. What would you put on next?

A. Put on top of that a three inches concrete top.

Q. Yes, sir.

A. Then you have a half inch between the two units of tile for cement joints.

Q. How much of the Ohio Bell conduit in 1925 had that half inch of mortar between those two tile?

A. I don't know, all that I have seen uncovered has mortar joints, and I have seen quite a little uncovered.

Q. Did you make any inquiry about it among the Bell men or who knew about it?

A. The Bell men who have been building the conduit here for years all say that they have plastered joints, all that I have talked to.

Q. A half inch of plaster between these two pieces of tile, isn't it?

A. Yes, sir.

Q. What do you put around these tile?

A. You don't have reference to joints now?

Q. No, I have reference to the whole thing, when you get it into the trench?

A. Well, when you have your concrete base placed, then you place your tile.

Q. Yes.

A. And cement your joints or plaster the joints.

Q. Yes.

A. Then you side fill that earth and tamp it between the side walls of the trench and the tile. Then your concrete top protecting this.

Q. All right, now then, what do we have next, then we go from there to the top of the ground, don't we?

A. From there to the top of the ground; you back fill with earth and tamp it unless the requirements are that the back fill has to be of sand or gravel, cement or concrete.

[fol. 5193] Q. I believe that you said that the standard specification for that fill was twenty-four inches, didn't you, to the street line?

A. I said that, — well, maybe you better read that out of the record, please.

Q. I don't know whether I can find it. As I recall it, you said the standard was twenty-four, and that they generally used thirty, something like that?

A. I don't think I said the standard, I think I said the minimum.

Q. Possibly minimum, we will accept it as the minimum; the minimum is twenty-four inches?

A. Yes, sir.

Q. Is there a maximum fixed by the specification?

A. For the depth of tile?

Q. Depth of cover?

A. For the depth of cover, anything beyond twenty-four inches as determined by the obstructions you meet, and in which you have to go down below in order to get your proper grade and drain.

Q. What is the maximum cover on the specifications where it is not under a street and it is not under a parkway?

A. Where it is under the sidewalk, the minimum cover is thirty inches.

Q. I asked about a parkway, grass plots, parkways, along between the curb—and between the sidewalk and the curb.

A. Why, the minimum I think is thirty inches.

Q. The minimum on parkways?

A. Yes, it is not shown in the specifications on parkways,

but in addition to the specifications, they had an engineering circular that requires that all conduit placed inside of the curb where the street is liable to be widened——

Q. Well, now, Mr. Hogan, doesn't this same specification [fol. 5194] that mentions this twenty-four inch minimum for cover under street—doesn't that provide for eighteen inches for cover under parkways?

A. I don't think so; it is an old one; it may have.

Q. You look it up?

A. The eighteen inches that you have reference to is for the subsidiary conduit, Mr. Calland.

Q. No, the one I say is conduit under parkways, not under sidewalks or under streets, where there would not be any weight on it; that is not important right now. Now then, using the four inches for a concrete slab, and the four and a half and the nine for the pieces of the tile, your three inches for that concrete slab, and a twenty-four inch cover, how much is wrong with Mr. Allensworth's figures?

A. Four inches.

Q. It comes to those four inches that you say is out of line?

A. Still there as far as I can see.

Q. Add them up; what does it make—forty-four inches, doesn't it?

A. Get four inches, three, nine, five, twenty-four—you have twenty-one inches for your tile structure and if he uses twenty-four inches——

Q. What do you mean by the tile structure?

A. That is the conduit, tile and the plaster between that two inches of tile.

Q. The concrete slab?

A. The concrete, the conduit and the plaster between that two inches of tile.

Mr. Burr: Do you make that twenty-one inches.

Mr. Calland: I make the whole thing forty-four one-half inches.

Mr. Thompson: Yes, but his testimony——

[fol. 5195] The Witness: You have to give more than that, Mr. Calland, and I also pointed out that Mr. Allensworth in his labor detail states that he used a thirty inch or a twenty-seven inch cover.

Mr. Thompson: That was the whole point.

Q. Yes, but Mr. Hogan, now did he say that that was to the top of the concrete slab or to the top of the tile when he said twenty-seven inches?

A. Well, let's see what he said.

Q. It would make three inches difference, wouldn't it?

A. What?

Q. That would make three inches difference?

A. Let's see what he said, "All main conduit is below that twenty-seven inch covering."

Q. All right, didn't say anything about conduit structure, did he; he said conduit; and it is twenty-seven inches, isn't it, from the top of the conduit to the top of the ground in his figures, three inches of his concrete and the rest of it is dirt?

A. No, it don't figure that way

Q. Well, I am not going to stop to figure it out?

A. Well, it figures one inch short of that, Mr. Calland.

Q. That is quite different from four.

A. How?

Q. That is quite different from four?

A. Yes, but all covering is mentioned from the surface of the top of the conduit structure.

Q. Who measures it that way?

A. Practically everyone I know.

Q. Is there any law against measuring it another way?

A. Well, no, suit himself.

[fol. 5196] Q. There is no law against it; that don't change the figures because he happened to include the three inch concrete slab in there instead of saying, twenty-four inches from the top of the slab, he says twenty-seven from the top of the——

A. I don't know whether he did or not.

Q. Well, you undertook to criticise him because you said his figures did not match?

A. That is right, and they do not match yet.

Q. Well, we have got your figures now and we can check them up. Mr. Hogan, when did you start on this work of making this appraisal?

A. I started to look into the appraisal for the Ohio Bell Telephone Company sometime in July, 1928; I don't recall the exact date.

Q. Well, July, 1928?

A. Yes.

Q. How many assistants did you have helping you on this work?

A. I had quite a few.

Q. And who were they?

A. Do you want them all or just a few?

Q. Well, I want to know the ones who helped you to make up this appraisal—all of them.

A. I had a man named Rouse do the printing.

Q. Who is Rouse?

A. Rouse is located in a building about two doors—let's see—more than that——

Commissioner Klinger: I suggest he make out a list of these.

Q. What is his business?

Commissioner Klinger: Do you want that now?

Mr. Calland: Yes, sir. Do that if he makes the list and told us who they are and what their business is.

[fol. 5197] Mr. Burr: Be glad to do that.

Commissioner Klinger: Will you do that?

Mr. Thompson: Certainly, be glad to do that; save a lot of time by it.

Commissioner Klinger: It will save a lot of time by it.

Q. Where did you do the work?

A. In my office.

Q. Where now?

A. Winton Hotel.

Q. At Cleveland?

A. Yes, sir.

Q. How much of the time since July, 1928, did you personally spend on this work, Mr. Hogan?

A. Well, it would be hard for me to give you an estimate of that.

Q. Can you figure that up; have you devoted your entire time to it.

A. I have devoted a good part of it.

Q. Well, what percentage?

A. I would say over 50 per cent. of my time.

Q. All these other employees busy all the time, were they on the payroll from the start until now?

A. No, they were put on and off, as set up, I would have the details and have the unit costs then I hired them to extend them for me and I hired a printer to print them for me, or run them off on this duplicator.

Q. You are going to give us that list?

A. Yes, sir.

Mr. Hogan: Now, if the Commission please, of course, here is this Hogan Exhibit Number 8 and 9——

The Witness: And 10.

Mr. Calland: Yes, we have only had a chance to look at it a very little while. I would just ask that Mr. Hogan be kept available. I don't know that we want to cross-examine [fol. 5198] him further after we have looked at this, still we may want to ask him and may ask for another cross-examination.

Mr. Thompson: Oh, certainly.

Mr. Burr: You have asked him to do some things. We will bring him back for that, and probably a very short redirect examination after we have a copy of this record. It is very short.

Mr. Thompson: If the Commission please, I think it would be well all within a day or so, if Mr. Calland would give us just a list so that we would be certain of the things he wants Mr. Hogan to do so that we will be certain to bring in just what he wants.

Mr. Calland: I don't know whether I can do that without seeing the record and if I have to go to the record, Mr. Burr will have the record and he can do it, too.

Chairman McCulloch: Judge Geiger would like to ask Mr. Hogan a question.

By Commissioner Geiger:

Q. Mr. Hogan, how long have you been in Ohio since 1927?

A. Since September, 1927.

Q. Where were you before that?

A. I was in Boston.

Q. Were you in the telephone business there?

A. I was in the telephone business with the New England.

Q. Did you have occasion at that time to make appraisals of telephone companies?

A. I helped with the appraisal for the New England Telephone Company that was used in their rate case in 1925.

Q. Did you do it the same way as you are doing it here, by reproductive value?

A. Yes, sir.

Q. Have you any ability to judge from looking at the [fol. 5199] a telephone plant what its true value in money

is at the time you make the examination without using this method of reproduction and depreciation?

A. Do you mean would I be able to tell what it cost?

Q. No, to tell what it is worth at the time you look at it—to make a fair estimate as to what it is worth?

A. In connection with this, I have not gone to look at any of the plants.

Q. I understand you have not, but I am asking you, have you that ability or experience that you could go over and make a physical examination of a given plant and give a just valuation of its then present value without going through the roundabout method of reconstructing it?

A. (No response.)

Q. Let me put the question in this way, have you ever acted as an appraiser to determine what a going plant should be sold for or what would be a fair amount to pay for it?

A. My only experience has been on two Bell rate cases, one in Missouri and one in Boston.

Q. And they were both based on the——

A. They were both based on the reproduction cost.

Q. Well, isn't it quite possible that there are some who have had enough experience in estimating the value of a telephone plant, by examination to be able to give the true value of it or approximately the true value of it by an examination, a physical examination of the condition of the plant and its expense and its age and everything else that would go to make up its value and give a just estimate of its value without going through the roundabout way of re-[fol. 5200] constructing it and then depreciating it?

A. Well, they would have to compare with some record of cost, Judge. If I were to go out and look at a pole and try to judge what that pole would be worth, I would have to base my judgment on how long it takes a gang to do it, what would I have to pay this gang in order to set it and I would also have to base it on the cost of the material and the freight.

Q. Well, now, let me ask another question, is there no way to estimate the value of a going telephone plant by considering the number of subscribers it has and the number of service stations it has, the population of the town and the ordinary age of the plant or anything of that sort—or things of that sort?

A. I have heard of some telephone plants having been sold on the basis of 200 or 250 dollars per station, but I think back of that that there was some estimate set up of what it would cost to replace the plant.

Q. Well, there have been a great many telephone plants sold and bought recently in the State of Ohio, haven't they?

A. Yes, sir.

Q. And the price has been fixed by ascertaining what it cost to reproduce them or has it been ascertained by going and looking at the plant and finding out how much revenue it produced, what is the condition of its equipment at the present time, how many subscribers it has, and what the territory is that it serves? Isn't that the thing on which they base and fix a value?

A. (No response.)

Q. Did you get the question?

A. I would think in some cases or rather expect in some cases that if I were to want to purchase a plant, I believe [fol. 5201] I would find out how many stations they had, what kind of equipment they had, how many poles they had and that it compared favorably in price with some other sale that I had heard of, for instance, some property nearly comparable with that sold for $200.00 a station, and I were offered this plant for $200.00 a station, I would purchase without any further check.

Q. Well, as a matter of fact, do you know in the State of Ohio of any purchase that has been made of any telephone plant in which the price has been fixed by a reconstruction value and then a depreciation as you have testified to here and concerning which there is so much testimony in this case?

A. No, I don't know of a single case in Ohio, Judge. I have known of cases in Missouri, a case in Kansas where they purchased.

Q. Well, isn't it a fact that in Ohio it has always been that you picked out some expert men and sent them out to look at the plant to ascertain its condition, its population, its age, and the revenue that it produced and based your purchase price upon that—of course, other elements entering in—but we always excluded the element of reconstruction prices when purchases have been made?

A. I don't know.

* * * * * * *

[fol. 5202] And also —— —— SPRING, recalled on behalf of the Ohio Bell Telephone Company, having been duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Mr. Spring, you have already been sworn?

A. Yes, sir.

Q. You have testified in this case?

A. Yes, sir.

Q. What is your position with the Ohio Bell Telephone Company?

A. Chief accountant.

Q. I believe that there has already been offered in connection with your evidence a statement marked Spring Exhibit No. 1, which shows the net additions to the plant and equipment of the Ohio Bell Telephone Company from July 1st, 1925 to July 30th, 1926, and the revenues and expenses of the company for the year ending December 31st, 1926. That is correct, is it not?

A. Yes, sir.

Q. Have you prepared a statement marked for identification Spring Exhibit No. 2, showing the revenues and expenses of the Ohio Bell Telephone Company for the year ending December 31, 1927 from property used and useful in the service of the public as of that date?

A. I have.

Mr. Burr: We offer Spring Exhibit No. 2 in evidence.

Q. I will ask you, Mr. Spring, whether or not the figures shown in your Exhibit No. 2 are the actual figures taken from the books of the company?

A. They are.

Q. Have you also prepared a statement marked for identification Spring Exhibit No. 3 showing the revenues and [fol. 5203] expenses of the Ohio Bell Telephone Company for the year ending December 31, 1928 from property used and useful in the service of the public as of that date?

A. I have.

Mr. Burr: We offer Spring Exhibit No. 3 in evidence.

Q. What is the source of the figures shown in your Exhibit No. 3?

A. The actual records of the books of the company.

Q. Do these exhibits and the other exhibits to which you will testify speak for themselves?

A. They do.

Q. And if the Commission desires a fuller explanation of course, you will be glad to make it?

A. Certainly.

Q. Have you prepared an exhibit which has been marked for identification Spring Exhibit No. 4, and which shows the net additions to fixed capital and construction work in progress of the Ohio Bell Company for the year ending June 30th, 1927?

A. I have.

Q. And those net additions are in the sum of what?

A. $12,001,449.30.

Q. What is the source of the figures shown in your Exhibit No. 4.

A. The books of the company.

Mr. Burr: We offer Spring Exhibit No. 4 in evidence.

Q. Have you also prepared an exhibit marked Spring Exhibit No. 5 showing the same thing as Exhibit No. 4 for the year ending June 30, 1928?

A. I have.

Q. What were the net additions to the fixed capital and construction work in progress of the company for that year?

A. $10,475,401.98.

Q. And what is the source of the figures shown in that exhibit?

A. That is to say, your Exhibit No. 5?

[fol. 5204] A. The books of the company.

Mr. Burr: We offer Spring Exhibit No. 5 in evidence.

By Commissioner Klinger:

Q. I notice in your Exhibit No. 4 a number of items in red. Will you explain that?

A. The first item you refer to, Mr. Commissioner, organization; it is the practice of the Ohio Bell Company in December of each year to charge off any item charged to organization as surplus, and that accounts for the red figure. In other words, the $2,101.00 is added during the last six months of 1926, but was written out in December, 1926, and charged to surplus. Do you want an explanation of the other red item?

Q. Do I understand these red items are, in fact, deductions?

A. Absolutely.

Q. Instead of additions?

A. Yes, sir.

Commissioner Klinger: All right.

Mr. Burr: By totalling the column, Your Honor will find that those are deductions.

By Mr. Calland:

Q. Then Mr. Spring, if I understand it; take your item 293, exchange aerial wire, means that during the period covered in this statement $168,486.66 worth of exchange aerial wire were removed from the property?

A. Not exactly; it means that $168,486.55 worth of exchange aerial more than the additions were removed; more than the net additions.

Mr. Calland: Yes; net removals?

Mr. Thompson: Net removals.

By Mr. Burr:

Q. Have you prepared an exhibit which has been marked for identification Spring Exhibit No. 6, showing the net additions to the fixed capital and construction work in prog-
[fol. 5205] ress for the six months ending December 31, 1928?

A. I have.

Mr. Burr: We offer it in evidence.

Q. And what is the source of the amounts shown in that Exhibit?

A. The books of the company. Do you want the amount, Mr. Burr?

Q. Yes, and the amount.

A. $5,791,743.33.

Q. Have you prepared a similar statement marked Spring Exhibit No. 7, showing the book cost of fixed capital and construction work in progress as of June 30, 1928?

A. I have.

Q. Now, as I understand it, that exhibit starts with the total book cost of fixed capital and construction work in progress as of June 30, 1925 in the sum of $100,935,747.36 testified to by Mr. Uprichard, the company's vice-president and auditor at a previous point in this case; is that correct?

A. That is correct.

Q. Now, to that amount that has been added, as I understand it, the book cost of net additions to fixed capital

and construction work in progress from July 1, 1925; that is to say, beginning at the point where Mr. Uprichard's testimony left off to June 30th, 1928 in the total sum of $34,191,056.29, is that correct?

A. Yes, sir.

Q. And that amount is covered by what other exhibits in the case?

A. The thirty-four million, Mr. Burr?

Q. Yes.

A. The thirty-four million is covered in Williams' Exhibit 19 for the year ending June 30th, 1926, and by the exhibit I just presented, Exhibit No. 4, for the year ending June 30th, 1927, and exhibit No. 5 for the year ending June 30, 1928.

[fol. 5206] Mr. Burr: We offer Spring's Exhibit No. 7 in evidence. I think I have offered all of Mr. Spring's exhibits identified at this hearing, but to make sure I will offer again Spring's Exhibits No. 2 to 7 inclusive.

Chairman McCulloch: Any objection to their being admitted? They may be admitted.

Thereupon the exhibits above offered were admitted in evidence on behalf of the Ohio Bell Telephone Company, and are herewith submitted marked Spring Exhibit No. 2 to Spring Exhibit No. 7, both inclusive.

Mr. Burr: That is all for Mr. Spring at this time unless the Commission or counsel care to ask him some questions.

Mr. Calland: None at this time.

By Commissioner Geiger:

Q. In your Exhibit No. 2 and your Exhibit No. 4, you have total maintenance $11,597,424; what does that maintenance cover?

A. That covers the actual cost of maintaining the plant and equipment of the used and useful property devoted to telephone service, and also the depreciation on such property.

Q. How much of that is depreciation?

A. Why, I can answer that question just be referring to another sheet of paper.

Mr. Burr: Yes.

Q. Well, is there anything that we can use to analyze your No. 4; have you a sheet or exhibit of any kind?

A. I have no exhibit prepared, but I will give you any information though that you would like.

[fol. 5207] Q. No. 4 doesn't set out money actually expended; it is an estimated value?

A. It covers the actual expediture for the maintenance of the plant, and covers the depreciation accrued.

Q. Now, what other item here from 4 to 13 or 4 to 11 cover estimates rather than actual expenditures?

A. Item 8, uncollecting operated revenues, is an estimate. That is a very small part.

And item 11, amortization of landed capital, is the same as applied to the amount of accrual on right-of-way. It is comparable to the depreciation accrual on physical property.

Q. What do you mean by landed capital?

A. That is a matter that the uniform system of accounts prescribes, providing for the amortization of right-of-way.

Q. Why would you amortize any right-of-way; how could you estimate that it was to be amortized?

A. Why, for the reason that if we go out and obtain right-of-way to put in a pole line, and later remove that pole line, it is necessary, of course, to remove half of the right-of-way investment on our books; otherwise our investment would be overstated.

Q. You mean $60,346.00 represents the amount of amortization on account of actual removals of pole lines, or an estimate?

A. On account of estimated removals.

Q. And how do you estimate it to amortize or remove that much of your landed capital?

A. Why, that is the result of an engineering study.

Q. Does it occur, as a matter of fact; do you ever remove your poles when you once get them in?

[fol. 5208] A. Oh, yes. We replace——

Q. Here and there a few of them?

A. We are continuously replacing pole lines with underground plant.

Q. Well, this represents an item of amortization that arises from the fact that you place underground a line that had formerly been on poles?

A. Partially so; not entirely. We also move a pole line from one side of the street to the other side of the street; we might abandon a pole line, as we do frequently.

Q. Well, if you should do that, you have in, as an item of expense, the estimated expense of acquiring the new right-of-way on the other side of the street?

A. It wouldn't be an estimated amount, though; just what we actually spend.

Q. There have been some estimates made in acquiring right-of-way in your expert accountant's testimony, your expert testimony. They attach to each pole a certain cost—well, never mind about that; but No. 11 is an estimated item?

A. In part.

Q. And No. 4 is an estimated item in part?

A. Yes, sir. I beg pardon; No. 11 is entirely based on estimate, and No. 4 in part.

Q. The rest of them are actual expenditures?

A. Except item 8.

Mr. Calland: You don't mean No. 4.

(Previous answer read.)

The Witness: I want to reverse that, please, No, that is correct; No. 11 is entirely an estimate and No. 4 in part. It was correct.

[fol. 5209] Q. No. 4 is what?

A. Is partly estimated.

Q. Well now, as to all other items, as they are numbered there, they are actual expenditures of money as shown by your books?

A. Yes, sir.

Q. And could you furnish the Commission without too great trouble, the basis of your estimate of No. 4 and No. 11?

A. Well, that can be furnished by the company. I am not sure I could furnish the basis of the estimate.

Mr. Burr: Well, in any event we will furnish it. Mr. Spring is the chief accountant; and for example when you get into the question of the amount to be set aside on account of depreciation, that really involves engineering. And it has been explained.

Mr. Thompson: But No. 4 can be divided, I assume, as between the actual money spent and the amounts accrued annually for depreciation included in the item.

Commissioner Geiger: No. 4 includes depreciation?

Mr. Burr: Yes. And it has been explained at great

length in the record in this case as to how the company arrives at the amount set aside.

Commissioner Geiger: Well, what we would want here, if it can be done conveniently, is how it comes in and is shown on the books, so the total would be the amount of the item——

Mr. Thompson: The witness has those figures here.

The Witness: I can divide the eleven million right now.

Mr. Burr: Do it, will you?

The Witness: Yes. The $11,597,424.00 is composed of an item of $5,573,216.00 covering actual expenditures for cur- [fol. 5210] rent maintenance, and $6,024,206.00 covering estimated depreciation of plant and equipment.

By Commissioner Geiger:

Q. And have you the same thing for No. 11?

A. Yes, sir—no, sir, not for No. 11. No. 11 is all estimated.

Q. Now, you have No. 10 rent deduction; what do you mean by that?

A. That item is composed chiefly of rents paid for space of telephone offices, rents paid for the use of other company's conduits and poles and other supports, rents paid for the lease of actual telephone equipment such as toll switchboards, and lastly for the rental of telephone circuits.

By Mr. Burr:

That is to say the company pays rent in some cases for office space; it pays rent for space on other company's poles, and also it rents equipment and rents circuits at times?

A. Yes, sir.

By Mr. Geiger:

Q. Well, do you rent from any subsidiary company or connecting company to which you pay rent?

A. Yes, we rent chiefly from the American Telephone & Telegraph Company, although there are some other telephone companies in Ohio.

By Mr. Burr:

Q. And not only that, but from other wire using companies?

A. And from other wire using companies.

Mr. Burr: For example, where a pole line is already in existence, owned by another telephone company or any other company, instead of putting up another line of poles it is customary to rent space on the poles already there?

Commissioner Geiger: What I want is who you are paying this rent to. Are you paying it out of one pocket into another pocket?

[fol. 5211] Mr. Burr: Oh, no.

Commissioner Geiger: You are paying rent to the American Telephone & Telegraph Company, which owns your company?

Mr. Burr: Well, which owns the common stock, yes. But, of course, as to its property, it is just as much entitled to a rental from us as anybody else, if we use the poles.

Commissioner Geiger: We want to know who fixes the amount of rent.

Mr. Burr: That I can't tell you, offhand, because I suppose it might be different in different cases. But there is a standard rate for contact rentals.

Commissioner Geiger: Well, you can furnish an itemized statement of your payment of rent deductions so we can tell to whom they are paid and for what purpose?

By Mr. Burr:

Q. Can you do that, Mr. Spring?

A. That can be done. It will involve a very substantial amount of work and a very lengthy statement.

Q. Yes. For example, there will be a pole some place and we may pay——

A. We may pay a dollar a year; any amount.

Mr. Burr: And I suppose there are thousands of other companies' poles on which we have wires. In some cities we have joint pole arrangements whereby the pole lines are constructed or those that are already there are owned jointly by two or three companies in order to do away with the necessity of a useless extravagant duplication. I have in mind in Akron, for instance——

Commissioner Geiger: Well, of course, you have in No. 1 telephone operating, you show the rentals that are paid to you for the use of your poles.

[fol. 5212] Mr. Burr: Oh, yes, exactly so; but it is a tremendously long account. It may be a dollar for an iso-

lated pole here; it may be for a whole line of poles some place else.

Q. Have you any idea how many items would be in that amount, Mr. Spring?

A. I haven't any idea; but I know it is a very considerable amount.

Commissioner Geiger: Well, I don't think we would need the items, except it might be interesting and probably instructive to know to whom you pay the rent. There are not many items of the sources of your rent deductions, are there?

The Witness: I think there would be a good many, yes; practically every electric light and power company. It would be considerable.

By Commissioner Geiger:

Q. A considerable number of different landlords to whom you pay rent?

A. I wouldn't want to hazard a guess; but I think it is.

By Mr. Burr:

Q. There are hundreds of them, aren't there?

A. I would say so.

Mr. Burr: The whole scheme is a most complicated one, Your Honor, and yet we believe and I think all the wire-using companies do, that it works for economy. But it goes into a tremendous number of items.

By Commissioner Geiger:

Q. Well, your item No. 6, or item No. 5, traffic expenses; that means what?

A. Traffic expenses cover the actual expenses incurred in operating the telephone switchboards and equipment in connection with the switchboards.

By Mr. Burr:

Q. The largest item is operators' wages, isn't it?

A. The largest item is operators' wages.

[fol. 5213] By Commissioner Geiger:

Q. Has there been any items included in that that you paid to the American Telephone & Telegraph Company?

A. There may be a few minor items in that, yes.

Q. Well, general and miscellaneous expenses; are they monies actually paid out, No. 7?

A. That represents money actually paid out, yes; the exact amount of money paid out.

Q. Some of it paid to the American Telephone & Telegraph Company?

A. None at all.

Q. I don't quite understand your item No. 9, taxes assignable to operation.

A. That represents the taxes accrued for all the forms of taxes——

Q. State and Federal?

A. State, Federal and any other.

Q. Well then, how do you make it assignable to operation; what do you mean by that?

A. That is the name of the account prescribed by the Interstate Commerce Commission.

By Mr. Burr:

Q. Isn't it true we have some property that is not in the appraisement not used and useful property, on which we pay taxes?

A. Yes, sir.

Q. And the taxes on such property is not included in this statement because they are not assignable to operation?

A. Yes, sir.

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[fol. 5214] By Mr. Calland:

Q. Can you, Mr. Spring, tell us now in which of the items on say Exhibit No. 2, does appear or is included the payments to the American Telephone & Telegraph Company under the so-called license contract?

A. They will appear in item 1, deductions from revenue.

Q. In item what?

A. Item 1, telephone operating revenue. They have been reduced by the amount of that license payment.

Q. I am trying to find out how you carried that payment on your books; what account do you charge it to?

A. We charge it to account 527.

Q. What is it called on this sheet?

A. It is included as a deduction of item 1, telephone operating revenue.

Q. Then we would have no means of telling from this statement what they amounted to?

A. That is correct.

* * * * * * *

[fol. 5215] And also WALTER SCHNEIDER, called on behalf of the Ohio Bell Telephone Company, having been duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Mr. Schneider, you have heretofore been sworn, and you have testified in this case?

A. Yes, sir.

Q. Are you familiar with the so-called Empire Theater leaseholds, being a 99 year leasehold renewable forever, owned by the Ohio Bell Telephone Company?

A. I am.

Q. Where is the property covered by that leasehold located?

A. Located on Huron Road, Cleveland, Ohio.

Q. And what is the property used for?

A. It is used for the headquarters building of the Ohio Bell Telephone Company.

Q. When did the Telephone Company acquire that leasehold, if you know?

A. March 1st, 1923.

Q. Do you know how much it paid for it in actual cash?

A. Yes, sir.

Q. How much?

A. $225,000.

Q. Please look at the papers which are marked for identification Schneider Exhibit No. 14, Schneider Exhibit No. 15, Schneider Exhibit No. 16, Schneider Exhibit No. 17, Schneider Exhibit No. 18 and Schneider Exhibit No. 19, and tell the Commission whether or not they are photostatic copies of the following documents: Schneider Exhibit No. 14, original 99 year lease, dated October 11th, 1899, from Margaret E. Gregg to Charles L. LaMarche?

A. It is.

[fol. 5216] Q. And does that lease cover the property to which you have just referred as being the Empire Theater lease?

A. It does.

Q. The next is the sub-lease from Herbert J. Mack as assignee of LaMarche and Eirick of the leasehold in question to H. A. Edwards; that is your Exhibit No. 15?

A. Yes, sir.

Q. And is your exhibit No. 16 the assignment of the underlying lease of Margaret Gregg identified heretofore as your Exhibit No. 14?

A. Yes, sir.

Q. And that assignment from Mack is dated what date?

A. January 9th, 1923.

Q. You are now referring to your Exhibit No. 16, are you?

A. Yes, sir.

Q. And it assigns the same leasehold that I have been talking about?

A. Yes, sir.

Mr. Calland: To whom?

Mr. Burr: That is an assignment from Mack to H. A. Edwards. I don't know whether it is a Miss or Mrs. Edwards, but Edwards is not a man.

Mr. Calland: I thought that was Exhibit 15.

Q. Schneider Exhibit No. 15 is a sub-lease from Herbert J. Mack as assignee of LaMarche and Eirick to H. A. Edwards. Then in Schneider Exhibit No. 16 Mack also assigns to Edwards whatever right he had in the original lease. In other words they handled it in two documents instead of one. In one he assigns his right in the original leasehold and in the other he sub-leases.

Mr. Calland: All right.

Q. As I understand it, your Schneider Exhibit No. 17 [fol. 5217] is an assignment of the underlying lease and sub-lease from H. A. Edwards to W. A. Greenlund of Cleveland, together with an assignment of the underlying lease and sub-lease from Greenlund to the Ohio Bell Telephone Company under date of January 19th, 1923, is that correct?

A. That is correct.

Q. And your exhibit No. 18 is H. A. Edwards assignment of the underlying lease, that is all the interest in the underlying lease of October 11th, 1899 originally made to LaMarche and Eirick; her assignment being to the Ohio

Bell Telephone Company and being dated March 1, 1923; is that correct?

A. Yes, sir.

Q. Also your Exhibit No. 19 is H. A. Edwards assignment to the Ohio Bell Telephone Company of her rights as sub-lessee of Herbert Mack?

A. That is correct.

Q. And they all cover the same property as shown by their terms. What is the annual rental paid to the Ohio Bell Telephone Company from that leasehold property?

A. $3000.

Mr. Calland: Paid to or by?

Mr. Burr: Paid by the Ohio Bell Telephone Company.

Q. $3000 a year?

A. Yes, sir.

Mr. Burr: We offer in evidence Schneider's Exhibit 14, 15, 16, 17, 18 and 19.

Chairman McCulloch: Any objection?

Mr. Calland: None at all.

Mr. Burr: I should have stated these copies are all photostatic copies of the originals.

Thereupon the exhibits above offered were admitted in evidence on behalf of the Ohio Bell Telephone Company and [fol. 5218] are herewith submitted marked Schneider Exhibits 14, 15, 16, 17, 18 and 19.

Q. How is this leasehold identified in the record in this case?

A. It is identified as parcel No. 18, Cleveland, page 8 of Williams' Exhibit 7-A, and is appraised in Williams' Exhibit No. 6.

Mr. Burr: We have, Mr. Calland, the photostatic copies of the checks of the Ohio Bell Telephone Company in the sum of $225,000 paid for the leasehold, but I assume that it is not necessary to encumber the record with them?

Mr. Calland: Well, put them in.

By Mr. Burr:

Q. Mr. Schneider, direction your attention to another matter; Mr. Allensworth's per cent. for tool expense is 2 per cent. of his direct labor cost, and the company's per cent. is 4 per cent. What have you to say to that?

A. In the first place Mr. Allensworth's tool expense percentage being one-half of that used by the company, and also that his direct labor on his appraisal is about one-half of that claimed by the company, results in a tool expense as claimed by the company of approximately four times what Mr. Allensworth has testified to as his opinion. That is tantamount to saying that the company has four times the number of tools that would be necessary to reproduce this property.

Q. What is included in the company's item of tool expense?

A. The company's tool expense includes the cost of small or minor tools, the depreciation on large and special tools, the cost of repairing tools; and the cost of tools which are lost.

[fol. 5219] Q. Where are the larger tools to be found in the inventory and appraisal of the company?

A. They are to be found on pages 21 and following in Williams' Exhibit No. 5-C.

Q. Under what heading?

A. General tools and implements.

Q. Now, as I understand it, the 4 per cent for tool expense used in the company's appraisal reflects its actual expense in that respect; is that correct?

A. Yes, sir; it is something less than that.

Q. And its actual expense or something less than its actual expense at or about what time?

A. June 30, 1925.

Q. Now, in the clearing of that 4 per cent as between maintenance and construction, you take 4 per cent of the direct construction labor, do you not?

A. Yes, sir, plus our direct labor, of course.

Q. And therefore, for the item of tool expense in this case you have taken 4 per cent of the direct construction labor for the reproduction of the property?

A. Yes, sir.

Q. What have you to say as to Mr. Allensworth's deduction for short lived tools in his appraisal?

A. Mr. Allensworth has deducted from the net additions of the company for the period October 31, 1924 to June 30, 1925 an estimated amount for small tools. The net additions which were furnished by the company and included in this appraisal included no such short lived tools; there-

fore Mr. Allensworth was in error in making that deduction.

Q. What have you to say as to Mr. Allensworth's allowance of 3½ per cent for supply expense, against the company's 4 per cent for that item in its appraisal?

[fol. 5220] A. The company used 4 per cent as the amount of supply expense which would be necessary in reproducing the property as of June 30th, 1925. The actual experience of the company deducting or making no allowance for undistributed freight and cartage, undistributed discounts and supply adjustments, was 3.65 per cent. This 3.65 per cent was increased by .35 of one per cent to allow for depreciation and shrinkage of supplies. This .35 of one per cent is about one-third of the company's actual experience in connection with this particular kind of expense.

Q. What have you to say in respect of Mr. Allensworth's cross-examination Exhibit No. 10 showing his reproduction cost of paving over conduit and manholes?

A. After Mr. Allensworth had taken figures furnished by the company for the square yardage of original pavement, he——

Q. For original pavement?

A. For original pavement. He determined his reproduction cost of that pavement; this reproduction cost was reduced approximately 2 per cent. This deduction was made, as I understand it, by Mr. Allensworth to cover pavement not owned by the company. Here again he is in error because the original pavement furnished to Mr. Allensworth represented 100 per cent ownership.

Q. Now, when you speak of original pavement you mean the pavement actually cut by the company in the construction of its conduit system?

A. Yes, sir, that is correct.

Q. And when you speak of pavement not owned by the company, you mean the other parties' proportion of jointly owned pavement over trench—no, when you speak of pavement not owned by the company, you mean not owned to [fol. 5221] the extent of 100 per cent, do you not?

A. Yes.

Q. And as I understand it, after making his appraisal of the company's paving actually cut, Mr. Allensworth

took 98.05 per cent plus of that amount as representing the Ohio Bell Company's ownership in that pavement, is that correct?

A. Yes.

Q. As a matter of fact, the company's ownership in that paving was 100 per cent?

A. Correct.

Q. What have you to say as to Mr. Allensworth's paving revision shown in part in his cross-examination Exhibit No. 10, and also referred to in his testimony at pages 2850 and 2852 of the record, and in his corrected Exhibit No. 6?

A. In Mr. Allensworth's corrected Exhibit No. 6, he increases his outside plant reproduction cost approximately $60,000.

Q. For what purpose?

A. For the purpose of correcting some revision in his paving costs.

Q. All right.

A. His total property value, however, is $90,000 approximately less than his first and original No. 6.

Q. That is, notwithstanding the fact that he adds about $60,000 for omitted paving, after he has done that his property valuation is less than it was before the addition.

A. Correct, yes, sir.

Q. All right, go ahead. How was that brought about?

A. In his original estimate of paving, and including that in his appraisal, he allowed 15 per cent for overheads. In his revised paving figures and his revised Exhibit No. 6, Mr. Allensworth has split the total paving costs as between costs incurred by the company in re-paving and [fol. 5222] costs that would have been incurred by the company through the hiring of a contractor or city to do some of the paving work. That proportion of the paving costs which the company would have incurred through its own labor he adds 15 per cent for overheads. To that cost by the company which by virtue of having hired a contractor or city to do the work, he has allowed no overhead.

Q. What have you to say as to that?

A. My judgment in the matter is that he is entirely wrong.

Q. Why?

A. Irrespective of who might have done the work, the

company would have incurred engineering expense, interest during construction, taxes during construction, general expenses and the inventory omissions would still remain in the paving.

Q. To what extent would the company have experienced those costs?

A. To the extent that the company has testified heretofore in its direct examination.

Q. What you mean is to the same extent as though all the paving had been constructed or installed by the company?

A. Yes, sir.

Q. Will you expand that a little further?

A. The engineering expense to which the company claims of five per cent is based on the actual experience of the company, and is a ratio of engineering expense to tool cost of property installed, and whether that property be installed by the company, by contractors or by others. If we were to eliminate the property installed by others or by contractors, the engineering expense applicable to the company's expenditures for labor and material alone would have been higher than 5 per cent interest during [fol. 5223] construction represents payment for the use of money, and there again it would be necessary for the company to pay the contractor in cash, and as a result the interest charges would be incurred on that money as well as if the company had used its own. The same applies to taxes; the payments made for pavement would be classed as company property, and as of tax listing date that particular property would be included in the taxes.

Q. What about the general expense?

A. The general expense should be treated and is treated the same as engineering expense, and should apply to the paving costs irrespective of whether such paving might have been done by contractor or by the company itself.

Q. Why?

A. Because as explained in the engineering, if the general expense was computed on the basis of actual expenditures as related to the total cost of construction by the company and such total costs include costs not only incurred by actual direct labor and materials of the company but also payments made to contractors and others for work done for the company.

Q. On Mr. Allensworth's theory, what would happen if instead of reproducing the property itself the company were to sub-let to contractors the work of reproducing or constructing all of the various classes of plant?

A. There wouldn't be any overheads.

Q. That is according to Mr. Allensworth's theory?

A. Yes, sir.

Q. Now, as a matter of fact, whether the company should reproduce the property or contract it out to others, what [fol. 5224] would be its experience in respect to the overhead expenses?

A. If the property were contracted out to others, the items of overheads just discussed would be exeperienced probably in a greater degree than it actually does incur under the methods on which we operate.

Q. How many telephone companies other than Bell Companies were operating in Ohio in 1925?

A. Approximately 450.

Q. How much of the company's conduit system is located in the Cleveland district?

A. 58 plus per cent.

Q. How much of it is located in the eight largest exchanges?

A. 94 per cent.

Q. Including Cleveland, 94 per cent?

A. Yes, sir.

Q. How much, if any, of the other classes of outside plant is located in the Cleveland district?

A. Approximately 17 per cent of the exchange poles, 24 plus per cent of exchange aerial cable, 19½ per cent of exchange aerial wire, 55½ per cent of exchange underground cable, 23 plus per cent of exchange submarine cable, 38 plus per cent of exchange right-of-way.

Q. How much of each of the classes of outside plant property other than conduit is located in the eight largest cities of the state?

A. The eight largest cities including Cleveland, 53 plus per cent for exchange poles, 75½ per cent of exchange aerial cable, 60 plus per cent of exchange aerial wire, 95 plus per cent of exchange underground cable, 52 plus per cent of exchange submarine cable and 78 plus per cent of exchange right-of-way.

Q. For all outside exchange property, the Cleveland district has what per cent.

A. 38 plus per cent.

[fol. 5225] Q. And the eight largest cities including Cleveland have what per cent?

A. Over 78½ per cent.

Q. In reference to Mr. Allensworth's cover over conduit of 27 inches; have you ever known a case wherein the word cover, as used in conduit specifications, included not only the earth, but also the concrete slab which is installed over the tile conduit?

A. No. The Ohio Bell Company's specifications, and all other specifications that I have seen on such subsurface construction work, plainly distinguished between the concrete slab on the one hand and the cover of dirt and so forth on the other.

Q. As a matter of fact, instead of using a 27 inch cover, what amount of cover did Mr. Allensworth use in his costs?

A. 23 inches.

Q. How do you arrive at that?

Mr. Calland: That the record may be clear, are you using "cover" in one sense in which you now say it is generally used, or using it in the sense Mr. Allensworth used it?

The Witness: I am using cover as used in all specifications relative to underground work, and which is specified in our specifications.

Q. As what?

A. As being the measurement from the top of the concrete structure to the top of the earth.

Q. Go ahead.

A. Mr. Allensworth testified that the average trench consisted of a seven duct conduit structure. He also specified that this trench had a width of 19 inches. He also testified that the number of cubic feet of excavation per trench foot was 5.81. A volume of 5.81 divided by 19 which is the width of the trench, and allowing for a 12 foot [fol. 5226] length gives a depth of 44.03 inches.

Q. You mean a 12 inch length, don't you?

A. 12 inch length.

Q. You said 12 foot.

A. It should be 12 inch. The conduit structure consists of a bottom layer of four inches of concrete, one three duct tile structure and one four duct tile structure. The three duct tile structure is 4¾ inches high and 13 inches wide; the four duct tile structure is 8⅞ inches square. The top of the conduit structure has a 3 inch layer of concrete. Therefore, the total height of the conduit structure is 20.625 inches, which subtracted from 44.03 inches leaves 23.4 inches. Allowing for joints——

Q. 23.4 inches for what?

A. For the covering over the conduit.

By Mr. Calland:

Q. By that covering you mean the covering eliminating the concrete slab on top of the conduit?

A. That is right. Now then, if we allow for the joints which were testified to by Mr. Hogan, the cover becomes 23 inches.

By Mr. Burr:

Q. Instead of 23.4?

A. Yes, sir.

Q. At page 3389 of the record, Mr. Allensworth refers to the fact that in the company's costs the exchange poles in the smaller sizes are shown at a higher labor cost than are toll poles and that after a certain height it is shown that exchange poles cost less to install than toll poles. What have you to say as to that?

A. Well, Mr. Allensworth is entirely in error there. In all cases our company's toll poles exceed the cost of exchange poles. However, it might be explained that there are only three sizes of poles that can be compared directly. Those are the 30, 35 and 40 foot class C poles.

[fol. 5227] Q. And what about costs in respect of them?

A. The total labor cost of the toll poles is in excess of the total labor cost of the exchange poles.

Q. In each case?

A. Yes, sir.

Q. By the way, have you, since your previous examination in this case, investigated any measurements of the actual depth of cover over conduit?

A. I have.

Q. With what result?

A. I have examined between two and three thousand locations, records of locations, measurements, and find that the cover is in excess of 30 inches.

Q. I want to get into the record at this point the company's drop wire labor cost used in its appraisal. Do you know what that is?

A. $2.05.

Q. Yes. What have you to say as to Mr. Allensworth's prices for double wrapped cable used in his appraisal?

A. Very much too low.

Q. Why?

A. I say this because I know of prices actually paid for double wrapped paper cables in 1924, and from quotations which I have seen for 1924 and '25——

Q. Quotations for what company?

A. Of the Standard Underground Cable Company.

Q. Yes.

A. And with my knowledge of the price of copper, lead and antimony prevailing throughout the years 1924 and '25, that the double wrapped cable prices used by Mr. Allensworth in this case are much too low.

Q. Now, you are referring to double wrapped cable?

A. I am; and I might add 22 gauge.

Q. Yes. Now, giving effect to your two previous answers, and using what you believe to be the correct double [fol. 5228] wrapped cable price as of June 30, 1925, what effect would that have on Mr. Allensworth's cable costs?

A. It would increase them approximately $1,000,000.

Q. Yes. At page 3269 of the record, Mr. Allensworth was asked the following questions and gave the following answers relative to the total percentage for overhead costs used by him in his Cuyahoga appraisal:

"Q. To make the record entirely clear, let me ask you whether that 19.75 per cent for undistributed construction expenditures was not 19.75 per cent of the entire property of the company in that case?

"A. I suspect it may have been.

"Q. That is your best recollection?

"A. That is my best recollection, yes."

On page 3432 of the record, Mr. Allensworth was asked the following question- and gave the following answers:

"Q. Now, whatever separate percentages you used or computed in that case, your total allowance for undistributed construction expenditures in that valuation amounted to 19.75 per cent of your total labor and material costs there, didn't it?

"A. N[illegible] sir. It probably did as to outside plant.

"Q. Didn't you so testify in the record?

"A. I so testified as to outside plant. That was not the way you asked the question.

"Q. You are sure of that, are you?

"A. I am sure that is not the way you asked the question, no, sir.

"Q. You are sure your previous testimony on that subject applied only to outside plant?

"A. I think so, as I remember it."

—. Now, regardless of that conflict in the testimony, I [fol. 5229] will ask you whether or not a statement was prepared showing the percentage of 19.75 per cent as the relation of the undistributed construction expenditures in the total physical property appearing in Mr. Allensworth's valuation of the Cuyahoga property.

Mr. Calland: Just a minute. I move to strike out all of the statement of counsel and the quotations from the record. I don't object to the question, but I see no necessity for repeating this record in connection with this question.

Mr. Burr: It is all the foundation for my question.

Mr. Calland: It is the foundation for argument, but not for a question.

Commissioner Klinger: If the witness can answer it without it, it may be stricken out.

Mr. Calland: He can answer him whether a statement was prepared showing Mr. Allensworth's valuation. All this is preliminary to it, and I can't see where it has anything to do with it.

Mr. Burr: It is explanatory and preliminary to the question itself, and certainly ought to assist the Commission and counsel——

Commissioner Klinger: Well, it may stand. Note an exception.

The Witness: Yes, sir, such a statement was prepared and handed to Mr. Allensworth.

Q. Was that statement shown to Mr. Allensworth and did he agree in your presence that it was correct?

A. Yes, sir.

Q. Have you the original statement prepared and shown to Mr. Allensworth which shows the 19.75 per cent rela-
[fol. 5230] tion of undistributed construction expenditures to total physical property?

A. I have.

Q. Will you produce the original?

(Witness produces paper.)

Mr. Burr: And we would like to offer a copy of it in the record as Schneider Exhibit No. 20.

Commissioner Klinger: It may be admitted, if no objection.

And thereupon the exhibit above offered was admitted in evidence on behalf of the Ohio Bell Telephone Company, and is herewith submitted marked Schneider Exhibit No. 20.

Q. That statement shows what?

A. This statement shows that the total overhead construction costs are equal to 19.75 per cent of the entire physical property of the Ohio State Telephone Company located in Cleveland. When I say entire property I mean right-of-way, land, buildings, central office equipment, station equipment, private branch exchanges, exchange pole lines, exchange aerial cable, exchange aerial wire, exchange underground conduit, exchange underground cable, furniture and fixtures, stable and garage equipment and tools.

Q. And when you refer to property you mean the property covered by Mr. Allensworth's so-called Cuyahoga appraisal?

A. Yes, sir.

Q. What have you to say of Mr. Allensworth's digging costs for conduit excavation in the Cuyahoga appraisal?

A. He used 3.7 cents per cubic foot.

[fol. 5231] Q. Equated to a 1925 wage scale what would that equal as to June 30, 1925 for that kind of digging?

A. Between ten and 11 cents.

Q. Per what?

A. Per cubic foot.

Q. For the same kind of digging; that is to say, for conduit excavation?

A. Yes, sir.

Commissioner Klinger: Are you through, about?

Mr. Burr: I think that is all at this time.

Mr. Calland: Well, if the Commission please, there are some questions I could ask now, but there are some that I will need to look at before I would complete the cross-examination, so we might as well postpone it all.

Commissioner Klinger: You are through then for today, are you?

Mr. Burr: Yes, Your Honor.

Thereupon the further hearing of this matter was continued, subject to call by the Commission.

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And thereupon the further hearing of this matter was resumed pursuant to call.

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[fol. 5334] And also RANDOLPH EIDE, called on behalf of the Ohio Bell Telephone Company, being duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Your name is Randolph Eide?

A. Yes.

Q. What position do you occupy with the Ohio Bell Telephone Company?

A. The operating vice-president.

Q. How long have you been connected with the company?

A. With the Ohio Bell as it is now formed since its inception.

Q. Since 1921?

A. 1921. With its predecessor companies since 1917.

Q. How long have you been in the telephone business all told?

A. 19 years.

Q. Have you caused to be prepared a compilation which may be marked as Eide Exhibit No. 1 for identification?

A. I have.

Mr. Burr: Before examining Mr. Eide in respect of the exhibit, it might be well to advise the Commission that most of the contents of this exhibit is already in the record. It, however, is scattered through the various pages, and one purpose of the exhibit has been to compile in handy form a great deal of the evidence heretofore introduced; also to bring down some of that evidence to date. Most of the material in the exhibit, except insofar as the exhibit represents extensions has been in the possession of counsel for the state for some time.

[fol. 5335] Will you briefly tell the Commission the scope of the exhibit, your Exhibit No. 1?

A. This exhibit contains 14 different sections. There is an index at the front of that section which describes briefly what each of these 14 sections are.

The first one is a historical sketch of the Ohio Bell Telephone Company with some reference to its present statewide rate case. Attached to that section is an historical diagram showing the constituent companies that went into the formation of the Ohio Bell Telephone Company as it now exists, and a chronology of the elimination of dual service throughout the State of Ohio following the consolidation of the Ohio Bell Company and the Ohio State Company on September 21st 1921.

Q. By the way, has that elimination been entirely completed?

A. That was completed in 1926.

Q. Yes.

A. The second section shows the growth of plant.

The third section is a summary of the station gain. We speak of each telephone as a station, and that shows the development and growth in the business.

The fourth section is some data which is contained in our annual reports each year with respect to the number of telephone offices and employees and payrolls.

The fifth section is informational and indicates the improvements that have been made in the speed of our long distance service.

The sixth section covers the rate of return on the book cost of our company.

The seventh section is a chronology starting with the [fol. 5336] book cost of our property at the time that the consolidation was approved, September 1, 1921, with each

of the items of financing which the company has had before the Commission since that period.

The eighth is a brief statement of the changes that have been made in the license contract with the American Telephone & Telegraph Company.

The ninth is an income statement of the company for the years 1925 to 1929.

The tenth is a detail by accounts of the telephone operating revenues.

The eleventh section is a detail by accounts of the telephone operating expenses; both for the years 1925 to '29 inclusive.

The twelfth is a statement of the gross additions to plant for fixed capital by accounts.

The thirteenth is a similar statement covering the withdrawals of fixed capital and retirements.

The fourteenth is the balance sheets of the company from the year 1925 to 1929 inclusive.

Q. Do any of the sections of your Exhibit No. 1 contain estimates or projections?

A. There are no estimates or projections in the exhibit. They are taken from the books of the company.

Q. Now, will you briefly discuss the different sections for the Commission's information?

A. Section 1——

Chairman Geiger: Just a minute.

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Chairman Geiger: Have you an advanced rate case in [fol. 5337] each city which is covered by these balances?

Mr. Burr: No, I don't think we have.

The Witness: May I answer? You have the entire Ohio Bell Telephone Company before the Commission in the consolidated rate case, and this covers the operations of the entire Ohio Bell Telephone Company.

By Chairman Geiger:

Q. Does this exhibit then cover matters that are not before the Commission in any rate case?

A. I would say no.

Q. Everything that is in this exhibit has relation to some pending rate case?

A. Some pending rate case.

Q. In the combined Bell Telephone rate case?

A. That is correct.

Q. In other words, you have some matter before the Commission in reference to every item that is exhibited here in this exhibit?

A. Yes, sir.

Chairman Geiger: All right.

By Mr. Burr:

Q. Now, will you proceed?

A. I will try to be, Mr. Commissioner, just as brief as I possibly can. The first part of this rather speaks for itself, the Section 1. It starts back with a history of the formation of the present Ohio Bell Telephone Company. Prior to the formation of the Ohio Bell Telephone Company on September 21st, 1921 as it exists today, there were in Ohio three Bell companies responsible for service; the Ohio Bell Telephone Company, the Central Union Telephone Company and the Chesapeake & Potomac Telephone Company operating along the Ohio River. In addition to that there was the Cincinnati Telephone Company operating in Hamilton, Butler and Clarmont Counties. There was also the Ameri- [fol. 5338] can Telephone & Telegraph Company operating a system of long distance lines, and the Ohio State Telephone Company operating a dual service in many of the principal cities in the state of Ohio, and also having its own long distance system. That property was consolidated in various steps, and on September 21, 1921, the Ohio Bell Telephone Company and the Ohio State Telephone Company, with the approval and consent of the Ohio Commission and the Interstate Commerce Commission, was consolidated into the Ohio Bell Telephone Company as it exists today. The company was ordered at that time by the Commission to proceed with the consolidation, and elimination of dual service, existing throughout the State of Ohio in these various localities. We proceeded with that elimination of dual service, and in each case filed the rates with the Public Utilities Commission. We consolidated 21 cities or eliminated the dual service, in 1922; 13 cities and villages in 1923, 9 in 1924, 2 in 1925 and 1 in 1926. Attachment A to that section simply gives you in picture form a diagram-tic scheme showing just what was done in the formation of each of these companies and as they were merged into the Ohio Bell Telephone Company. Attachment B gives you

the detail by cities of the job of eliminating dual service in the State of Ohio.

Section 2 shows the growth of plant. The book cost of the property as of September 30, 1921, which was the date of the consolidation of the Ohio Bell and the Ohio State Company was $77,839,932.40. That was the book cost approved by the Public Utilities Commission in its order at that time. By years from September 21, 1921 to the end of the year 1929, our company has made $143,244,233.89 of [fol. 5339] gross additions to its properties, so that as of December 31, 1929, the book cost of the property including construction work in progress was $159,476,902.53. I would like to call attention to the fact that this statement does not include any investments, cash or deposits, receipts, materials and supplies. It is the fixed capital, the bare bones of the plant.

You can't get—I overheard your question, Mr. Thompson—you can't add 77 and 143; you notice it doesn't give you 159,000,000. The withdrawals from the plant which are covered in another section would have to be taken into consideration in considering that section.

Section 3 shows the growth of the business——

Q. Before you proceed with that; these gross additions include purchased plant?

A. They include new plants constructed, betterments and plants that may have been purchased.

Q. Now, proceed with Section 3.

A. Section 3 shows the company as having had 443,091 stations as of September 20, 1921 which was the date of the consolidation, and I have shown by years the gain in number of telephones in column B excluding purchase by years, so that the plant has grown from 443,091 stations on September 20, 1921 to 709,713 stations as of the end of the year 1929.

I call attention to column B which shows a gain excluding purchase and sales of 57,639 stations; the total net gain being in column E which is 622,605, being represented by the purchase of some miscellaneous smaller companies scattered throughout the state.

Section 4 is simply some statistical information with re- [fol. 5340] spect to the number of employees in the company as of December 31, 1929; 15,258 employees with a total payroll of $20,637,968.00. In addition, as will be noticed

there by item 6, there are 365,035 connecting company telephones in the state of Ohio in addition to the 709,713 that the Ohio Bell operates, and neither of those figures includes the Cincinnati plant.

Q. What is a connecting company?

A. A connecting company is a company operating in some locality handling the local telephone service, with whom we have a contract for the long distance service; in other words, we connect our long distance lines with the lines of that local company operating in that particular territory.

Q. And most of these connecting companies are those in which the Ohio Bell Telephone Company has no interest beyond the connection?

A. Practically all of them we have no financial interest. There are some that we do. For example, in the Lima Telephone & Telegraph Company we own a 30 per cent interest; in the Athens Company a small interest. Cambridge—or not Cambridge, but Mansfield, a small interest. No interest in Cambridge—and of that type.

Q. Are these 365,036 connecting company stations all located in Ohio?

A. They are all located in Ohio.

Now Section 5 shows the improvement that our company has made in the speed of its long distance service; that is the speed of connection from one city to the other. Back in 1923 that was averaging about 10 minutes, and we have been able to improve that so that it is down to 2 minutes. I might say that we have made relatively similar improvements in all other items of our service, such as installation, [fol. 5341] maintenance; but I have only shown this as being typical.

Section 6 is a statement which shows the rate of return on the book cost of our company. The column B there shows the average book cost of our fixed capital, our construction work in progress, investments, cash and deposits and materials and supplies on hand. That is an average for each of the years indicated at the left. The column C shows the net income available for interest, dividends and surplus by years. That divided into the average book investment gives us our rate of return which is shown in column D. For the year 1929 that was 5.9 per cent. The average for the 1922 to 1929 inclusive was 5.6 per cent.

By Chairman Geiger:

Q. May I ask you at this point whether column C includes the income that you have had by reason of the advanced rate?

A. Column C includes all of the income of the company including in each one of those years such income as the company has received from the rates that are pending before the Commission under bond.

Q. So that if the Commission should order you to return any of that, due to these proceedings, this column C would have to be amended?

A. Correct.

Mr. Burr: Reduced, and column D reduced.

By Mr. Calland:

Q. Mr. Eide, does the net income shown in Column C of this Sub-division No. 6 reflect the payments to the American Telephone & Telegraph Company under the license contract?

A. Yes, they reflect that. The accounting of that, however, is a deduction from revenue rather than from your expense; that is it is not shown in the expense account, but [fol. 5342] it appears as a deduction from revenue.

Q. That was my reason for asking. It is shown in the net income figure shown here.

A. It is. And Section 10, Mr. Calland, the next to the last item, on each of the years '25 to '29 inclusive, gives you the amount. It is shown there as account 527, less license revenue deduction.

Mr. Thompson: May I interrupt off the record.

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By Commissioner Bricker:

Q. Before arriving at the figures in column C, you have deducted your license?

A. That is right.

Mr. Thompson: That is exactly right.

By Chairman Geiger:

Q. Well, does column C reflect your income from long distance telephone operation?

A. Yes, sir.

Q. Is that set out under 10, the details?

A. The details of the revenue is set out in Section 10.

Commissioner Geiger: Well, where is the long distance item?

Mr. Thompson: 510, message tolls, $5,736,777.45 for 1925, and certain income from leased pole lines; and that is for each of the years straight through.

By Chairman Geiger:

Q. Your toll service revenue?

A. Toll service revenue. There are six different accounts there. Those numbers opposite there are the standard numbers that are prescribed in the accounting system. Shall I proceed?

By Mr. Burr:

Q. If you please.

A. Section 7. Item 1 is the value of the property of the Ohio State Company and the Ohio Bell Company, the con- [fol. 5343] stituent companies authorized by the Public Utilities Commission in its order of September 17, 1921, and shows there the amount of fixed capital and construction work in progress as fixed at that time, being $77,839,932.41, item 3.

Now, it is customary for our company to make application before the Commission to approve its financing of its operations from time to time as additional capital stock or notes or other type of funds are required. I have taken and set forth there as a matter of interest the details of each one of those orders, bringing the value of the property that was fixed at that time on the books down to date. There are in this exhibit some items that we have not been before the Commission to request financing for. Those are the last items appearing on the exhibit and are detailed. They are the items that we would expect at some time when we desire to issue additional common stock or some other type of financing, to place before the Commission at that time for their consent and approval.

Q. Will you give the number of those so that the Commission will understand exactly the assets to which you refer?

A. Well, item 15 shows the amount of approval by the

Commission for the purchase of the Fremont Home Telephone Company, the Tiffin Consolidated Telephone Company, the Salem Township Rural Telephone Company and the Fairfield Township Telephone Company, and it states there "Not yet submitted to the Public Utilities Commission of Ohio for authority for the issuance of stocks, bonds, notes or other evidence of indebtedness for the reimbursement of monies actually expended from the treasury." [fol. 5344] That same qualification applies to item 20, although you will note in item 20 there has been approval of the purchase of the Wintersville Telephone Company and the Chester Telephone Company.

I would also like to call your attention—I got fooled on it myself—that exhibit doesn't end on page 3. There is a small part of it over there on page 4.

Q. Now in respect of all of the property covered by items numbers 15 and 20, in each of those cases, the Commission fixed and approved a price at which the property was to be acquired by the Ohio Bell Telephone Company?

A. On those properties that are listed there, that is correct.

Q. Now, in respect of the securities already issued——

A. And those are the prices that are reflected in our books also.

Q. Yes; and in respect of the securities already issued against orders of the Commission, tell the Commission whether or not the additions represented by those securities have been checked by the Commission in each instance?

A. All of those additions have been checked by the Commission's engineers and accountants, and it is my understanding that they have been found correct, in that they have issued the necessary orders covering that application.

Q. Now, in stating that they have been checked, do you mean by that that the Commission's engineers have gone over the company's books?

A. The Commission's engineers have gone through all of our books and—of course, I don't know just exactly what their procedure was, but they went through the processes of checking the books.

[fol. 5345] By Mr. Calland:

Q. Just to clear it up as we go along; I don't know, Mr. Eide, whether you are the accountant who gets these out;

you may not be able to clear me up on this, but I am just puzzled for the moment. On page 2 of this Sub-division 7, item 12 is investments, cash and deposits and materials and supplies on hand as of June 30, 1928.

A. That is right.

Q. In the amount of $2,694,000.00. On the next page, item 17, we find added again plus investment, cash and deposits and materials and supplies on hand, as of June 30, 1929, an item of $4,574,347.00. Does that mean that there was an increase of $4,575,000.00 in that period?

A. That means that there was that increase. That is largely represented, however, by the purchase of securities that the old Central Union Telephone Company was holding, and they were purchased by the Ohio Bell Telephone Company.

Mr. Thompson: Off the record.

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The Witness: Now, item 8 is simply a brief summary of the changes that have been made in the license contract between the American Telephone & Telegraph Company and the Ohio Bell Telephone Company. That was reduced on January 1, 1926 from 4½ to 4 per cent. It was further reduced on January 1st, 1928 from 4 to 2 per cent., and on January 1st, 1929 from 2 to 1½ per cent.

By Mr. Burr:

Q. What have you to say in respect of the continuance of the license contract services since the testimony of the last witnesses on the subject?

A. The license contract service between the Ohio Bell Telephone and the American Company has been continuous [fol. 5346] throughout these years, and in increasing volume, and is being continued at the present time.

By Commissioner Bricker:

Q. There is no reduction in the service that is rendered then for the 1½ per cent. under that which was rendered for the 4 per cent.?

A. There is no reduction in the service. There has been a change in the handling of the instruments, the transmitters and receivers since January 1, 1928.

Q. The title to that property has been transferred——

A. Has been transferred to the Bell Company; that is the Ohio Bell Company.

Mr. Thompson: That change is set out more in detail in Sub-Division 2 of Sub-Division 8.

The Witness: Shall I proceed, Mr. Burr?

By Mr. Burr:

Q. If you please.

A. Section 9 is a copy of what is known in this case as Cooper Exhibit No. 8-2, which is an income statement for the year ending December 31, 1925. A similar statement appears which was introduced by our Mr. Spring in the year '26; by Mr. Spring for the year '27; by Mr. Spring for the year '28, and I am including a similar statement covering the income for the year 1929.

Q. And the purpose of including the Cooper and Spring exhibits here, or rather repeating them, is merely that you may have the whole story under one cover?

A. Have the whole income statements under one cover.

Section 10 is a detail of that income statement, showing the summaries of the different types of revenue. For example, the first section is the various exchange service [fol. 5347] revenues, and the second section is the various toll service revenues, and the third section the various miscellaneous revenues.

Q. Will you discuss Section 11 next?

A. Section 11——

By Chairman Geiger:

Q. Just a moment. In section 10 which shows the various years, does item 527 indicate the license fee?

A. That indicates——

Q. 4½ per cent. and now down to 1½?

A. 4½ down to 1½. Item 527 there, license revenue debtor, shows the amount for each of the years. That was $626,184.48 in the year 1929.

By Mr. Burr:

Q. Now will you discuss——

By Chairman Geiger:

Q. Just briefly, what does that cover; what do you pay into the American Telephone & Telegraph Company -626,000

each year for? You are paying at the rate now of approximately $626,000 which was in 1925 $1,274,000 and has been in varying amounts between 1925 and 1929, depending upon your income and upon the rate of the fee. What is that to cover?

A. That covers consultation, advice and assistance that we receive from the staff numbering several thousand people of the American Telephone & Telegraph Company, its consultation, service, advice and assistance with respect to the maintenance of the property, with respect to the quality of the service rendered, with respect to the improvements of the service. It covers financial and accounting advice and assistance. It covers our right to use and be protected from any patent litigation and royalties. It covers the whole business field that has been set forth in considerable detail in this case. If you ask me to do it briefly, that is about as brief as I can do it without going into a great [fol. 5348] amount of detail.

Mr. Burr: There are thousands of pages in the record on the subject, Your Honor.

Chairman Geiger: This is a summary of that thousand pages; right?

Mr. Thompson: As near as the witness can do it in two minutes.

Commissioner Bricker: Could you designate the pages in the book?

Mr. Burr: Not from memory, but I know I am not capable of carrying the exhibits all at once.

The Witness: Section 11 covers the breakdown and detail of the various items of expense in accordance with this general system of accounts for each of the years '25 to '29 inclusive.

By Chairman Geiger:

Q. Just a moment. Your item 608 is depreciation of plant and equipment?

A. That is right.

Q. Now, on what is that based; actual observed depreciation or percentage?

A. Well, that is based, Mr. Geiger, on our depreciation experience, mortality studies and judgment on the turnover that there is in the plant, and on it- obsolescence and inadequacy and rust and rot and all of those things. It is ap-

plied and determined by finding a rate through our experience for each of the individual items of plant, and that rate is applied to each individual item of plant. When you get all through, it results in an over all figure, but it is not an over all figure that is applied to the property. It is a figure applied from our experience to each individual case [fol. 5349] and each type and kind of plant.

Q. Does it result finally in a per cent. that is a certain per cent. of your entire equipment?

A. That is correct. That is, you know what your total fixed capital is and you know what the total charge for depreciation has been, and that total, divided into the fixed capital, will give you the rate.

Q. What is the rate of depreciation you have there?

A. That has varied from 5.01 to about 5½ over these years.

Q. 5 to 5½. Now, where does that item finally reflect itself in your balance sheet?

A. That is an expense item.

Q. Do you find from your experience that you require that much more depreciation of plant and equipment, or does it accumulate into a sum?

A. Our experience from the date of this company is that we have not been setting aside enough; our reserve hasn't been growing.

By Commissioner Bricker:

Q. You have actually used them in the reconstruction of your plant, substantially the amount that you have set aside annually?

A. Practically so. Our percentage, for example, of our reserve to the total of plant has remained practically constant. The dollars themselves, of course, have increased because we have a larger plant.

By Chairman Geiger:

Q. It runs from 5 per cent. to 5½ of what figure; your total income or of your——

A. No, of the total income as shown on the books.

By Commissioner Bricker:

Q. That is figured on book value?

A. That is right.

[fol. 5350] Q. Value of the physical plants.

A. There are individual plants that will run less and higher than that, and its application is to the particular type of plant. This 5½ is an over all after you get through.

Q. It is an over all on the actual physical plant?

A. That is right.

By Chairman Geiger:

Q. Well, would that throw any light upon the present condition of your property; the way matters have run generally and not specifically in these cases, that properties are shown here to be in approximately 89 or 90 per cent. condition which have had a life of 10 to 15 years; is there any connection between that item and the item used by the engineer for depreciation so as to show present condition of plant?

A. No, there is no connection between those two items. The present condition of your plant is an observed thing. I don't take the bookkeeping rate, for example, at all, in connection with present conditions; that is the bookkeeping rate for depreciation and what the present condition of the plant is haven't any relation. For instance, you might decide that you will depreciate this property at the rate of 2 per cent. a year. The only relation there that I can see, if anyone would expect to take care of the depreciation in telephone properties at a 2 per cent. rate after a great many years in the future, they would find themselves in trouble, but I don't get where there is any relation between the present condition of the property and the depreciation rate.

Q. Well, the matter that has troubled some of us is very briefly this; that you show here a deduction from your [fol. 5351] revenues and setting aside from your revenue what is equivalent to we will say for round numbers 5 per cent. of your book value of your property, and yet when your engineer appraises the property by reproducing, he will deduct not over 2 per cent. and hardly that for the life time of the property; properties that are concededly 15 years old will only show a depreciation of 10 per cent. in the period of 15 years.

A. Well, I don't want to get too deep into this, Mr. Geiger, but the age of your plant depends on what you have been doing with that plant. For example, if you are going to continue a grade of telephone service that is satisfactory

to the customer, and the apparatus that will work properly, you are continually replacing parts in that plant; and you might have a plant that is 15 or 20 years old and have it in a very high state of repair and present condition.

Mr. Thompson: Off the record.

By Chairman Geiger:

Q. Does your set-up here include how your item 608 which is depreciation of plant and equipment is really expended; is it expended to keep the old plant up to a proper degree of perfection or is it expended in additions to your plant that are really capital expenditures?

A. Those particular dollars are not tied. We take whatever money we have, and in our particular case it represents the purchase of new property; that is the addition of new property to the company.

Q. Well, for instance I notice in one of your advertisements you are building a very splendid new building in Akron; is that correct?

A. That is correct.

[fol. 5352] Q. Well, might that new building be paid for out of item 608 which is reserve for depreciation plant and equipment?

A. No. It is out of new money.

Q. How?

A. It is out of new money.

Q. Out of new money?

A. That is correct.

Q. You wouldn't build a new plant out of depreciation?

A. However——

Q. Item 608.

A. Suppose we had that particular improvement up there in Akron; the building and the equipment and the plant associated with it is going to run us somewhere around $7,000,000. That means we have got to find $7,000,000 to pay for that. Now, if we have $2,000,000 on hand we will say that might be tagged as depreciation reserve or something else, we certainly would use that $2,000,000 and borrow 5,000,000.

By Commissioner Bricker:

Q. But that wouldn't change your account at all.

A. It doesn't change your bookkeeping or your account at all.

By Chairman Geiger:

Q. Well, would it result in your using any of the money that you have collected for the item 608, depreciation of plant and equipment, in rebuilding or building a new addition to your plant?

A. Yes; money that is taken in, regardless of what the source is, and we have it available, and we have a plant that we want to build, we use whatever money there is, whether it came from the bookkeeping entry of depreciation or anything else.

Q. Well, is your depreciation account kept up so that you have that total amount that you have collected for the purpose of depreciation, or do you exhaust that amount and [fol. 5353] apply it to building a new building?

A. Take, for example, the case that you have in Akron. We will retire a considerable amount of plant in Akron as a result of that new project there.

Q. Well, isn't this true, that you will have a very much better building than you retired, and you will have built it out of the sum that you collected from the rate payer for the specific purpose of depreciation?

A. No. We wouldn't build that building out of depreciation.

Q. Plant and equipment?

A. There might be a few dollars that may have come through that particular thing, but we don't build that building out of depreciation.

Thereupon a recess was taken until 1:30 o'clock P. M. of same day.

[fol. 5354] Afternoon Session

February 19, 1930.

And also RANDOLPH EIDE, resuming the stand, continued his testimony as follows:

Examined by Mr. BURT:

Q. Proceed.

A. I was on Section 11 when we recessed for lunch. I just want to say again that Section 11 is a detail by the stand-

ard accounts of all of the items of telephone expenses for the years '25, '6, '7, '8 and '9.

Section 12——

By Chairman Geiger:

Q. Just a moment. What is the distinction you make between your item 607 and 608, one being a total for current maintenance and the other for depreciation of plant and equipment; is that an actual distribution of the money to the proper funds or is it an estimated account?

A. That is an actual distribution of the money in accordance with the interpretations of those two accounts as prescribed by the Interstate Commerce Commission and this Commission.

Q. They run approximately the same during the years, do they not?

A. It so happens that they do run in gross dollars about the same amount. It is merely a coincident.

Q. Well, in the five years from December 31, 1925 to December 31, 1929—that would be four years, wouldn't it—as I gather you have expended $23,327,948.00 for depreciation of plant and equipment; that is you have collected on item 608 about $30,000,000, 31,000,000, and you have at pres- [fol. 5355] ent in the fund $7,892,000?

A. No.

Q. Not so?

A. No, not the seven million.

Q. Well, your item 608 on the detailed telephone operating expenses for December 31, 1929 shows $7,819,000——

A. 675 and 59 cents, that is right.

Q. What is it, $7,819,765.59?

A. That is right.

Q. That is in that fund now, or was on December 31st?

A. No. That is the current charge for the depreciation of plant and equipment for that year.

Q. Well, for that year then?

A. Yes, sir.

Q. Totalling it up to December 31st?

A. As of December 31st, 1929. If you will turn to the last sheet of this exhibit——

Q. Yes.

A. That is $15,510,044.78. That is the amount of the

so-called account reserved for depreciation as of December 31, 1929.

Mr. Thompson: Off the record.

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Chairman Geiger: Well, that is what I am trying to get at.

By Chairman Geiger:

Q. You collected during that five years $31,147,623.00, and you have left in your fund $15,510,044.00. During that period you spent then $15,637,579 for depreciation items?

Mr. Thompson: Your Honor overlooks the fact that in that account——

Q. Is that so?

A. No, that is not entirely correct, Mr. Commissioner.

Q. All right. What I was trying to get at, was whether [fol. 5356] or not you are able to inform the Commission by your books in any way what part of this money that you did expend actually went to proper items of depreciation of plant and equipment as distinguished from the current maintenance?

A. They are two very separate accounts.

Q. I know they are; but are they separate in actual application of the money?

A. Insofar as the bookkeeping is concerned, yes. But our dollars, Judge Geiger, are not particularly tagged toward one account or another. The bookkeeping is simply a record of those transactions; and when you ask me to say that this dollar went to maintenance and another dollar to depreciation, that is just an impossible thing to answer.

Q. Well then, let me get at it in another way. Will your books show the expenditure by you for depreciation and maintenance, the difference between what you have collected and what you have now left in those two funds, have you spent any of that money for say building buildings that are different from the buildings that were before?

A. Any monies that went——

Q. Well, has any of it gone into capital account?

A. Of the monies that have been——

Q. Collected for maintenance and for depreciation?

A. All funds that have been collected for depreciation——

Q. And maintenance.

A. Maintenance is—we haven't any money for maintenance. That is money that we pay out of the money that we have taken in.

Q. Sure; but you must take it in before you pay it out.

A. The money that we took in as reflected in this main-
[fol. 5357] tenance account went to paying the wages and materials and so on that went into the current maintenance of the plant.

Q. Well, I don't succeed in making myself clear so—I don't get the explanation of it.

A. I would be very glad to——

Mr. Burr: We would be very glad to explain it after the hearing.

Chairman Geiger: All right.

By Mr. Burr:

Q. Go ahead.

A. I might add this; that the monies so collected as a depreciation reserve, those are reinvested in the property.

By Chairman Geiger:

Q. Well, reinvested in the property.

A. We buy new property for those dollars if we have any of them. In fact, that is where our entire depreciation reserve is; it is represented in property or represented in the assets of the company.

Q. Well, it is represented in the assets of the company that go to make up your present value of the property?

A. Yes.

Q. Well then, doesn't that resolve itself into this, that you collect from the subscriber enough money not only to keep up your depreciation and your maintenance but to produce a surplus that goes in to increase the value of your property upon which he is then required to pay a rate sufficient to make a proper per cent. upon the total value of your property, a part of which came from him simply to take care of depreciation and maintenance, but you have got more than you can use for those purposes, invested in new property, thereby enhancing the value of the property
[fol. 5358] used and useful, and thereby requiring him to pay a greater rate in order to pay you a proper return upon that property?

A. No. He is paying us for the wear and tear and all the other things of the property that he is using up currently in the service that we are rendering him, and we are making a depreciation charge and building a fund against the possible retirement of this property that he is currently wearing out.

By Commissioner Klinger:

Q. If I understand Judge Geiger's question, he means to say haven't you collected more than you needed for the depreciation reserve, and capitalized that?

A. No, sir; in my opinion we have not collected enough.

By Chairman Geiger:

Q. That is what I wanted to get at. Well, haven't you built new structures that you never had before out of the monies you have collected through subscribers under the guise of the amount necessary for depreciation reserve and for maintenance?

A. No, sir.

Chairman Geiger: Well, all right.

By Commissioner Bricker:

Q. As you capitalize your additions and betterments built out of the reserve for depreciation, the money then returns into the depreciation fund?

A. No; any plant that we have, regardless of where the money came from, becomes part of our fixed capital; any plant that we retire is deducted from that reserve.

Q. I appreciate that; but any additions or betterments which you make and then capitalize, from the sale of those securities the monies received goes into the reserve for accrued depreciation fund; you rebuild your fund out of your——

A. That is any monies that we have expended out of the treasury, the treasury is reimbursed by the addition of [fol. 5359] the capital stock or bonds or whatever the security might be; that is correct.

Q. And the particular portion which is taken out of the reserve for accrued depreciation would thereby go back into that fund?

A. Yes, sir, whatever money we might have issued; for instance I would like to make this clear, I don't like to be

left in a situation of at least indicating my unwillingness on my part. I am struggling——

By Chairman Geiger:

Q. No, we are just struggling to grasp this thing.

A. I think this is one way of getting at it, and that is to take Exhibit No. 14, or Section No. 14, which is the company's balance sheet. You will find there that fixed capital reserve—that is down at the bottom of the page—at the end of December 31, 1925 was $12,972,534.64; in 1929 the same figure was $15,770,520.96. Our reserve over that five year period therefore increased about two and a half millions of dollars. If Mr. Thompson's calculations are correct, that is approximately right.

Q. Well now, just to make a concrete illustration of it; you would build a new building in Akron, you know approximately what it costs?

A. The Akron building by itself, yes. The building cost about a million and a half.

Q. A million and a half?

A. That is right.

Q. Now, it replaced a building that was worth how much?

A. I haven't the exact figure on that. There were two buildings there, the old Ohio Bell building and the old Ohio State building, alongside of it. I think that those two buildings, including the land stand us on our books, and I am quoting from memory, somewhere around $600,000.

Q. Well, let's assume, just for the purpose of figures, [fol. 5360] that your prior building which was there, which was then used and useful in your business, was worth $500,000, and your present building is worth $1,500,000. Where did that one million come from that is the assessed value of the present building over the old building?

A. We borrowed that money.

Q. What are you going to pay it out of; the reserve for depreciation?

A. No. We borrowed that money and the people that loaned it to us expect us to pay interest on it or pay back the principal some day in some form or other.

By Commissioner Bricker:

Q. But if you had built it out of your reverse for depreciation it would not have affected this item at all?

A. No.

Q. And if you didn't replace it somebody would have to replace it out of the equity in the ownership of the property.

A. That is right. That building, as I say, is going to cost us one million and a half. That building goes on our books as an asset. When we write that old building off that comes out of our depreciation reserve at what we paid for it, or in this particular what we can get for it.

By Chairman Geiger:

Q. That is all right; but just using that as an illustration, as to whether a part of your collections from the subscribers under the account of reserve for depreciation and reserve for maintenance doesn't really go into a new structure that ought to be paid out of new capital—is that so?

A. There may be some of those dollars that you could tag under there.

Q. All right.

A. I am not an attorney, but I believe the laws authorize the reinvestment of reserve in additions to plant. I may [fol. 5361] be wrong on that.

Mr. Thompson: Off the record.

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By Mr. Burr:

Q. You spoke a while ago, Mr. Eide, about borrowing money for that building. Now, after you have borrowed the money you will issue securities, will you not, in order to reimburse you for that borrowed money; in other words to enable you to pay off that borrowed money?

A. That is right. And in our financing over the past few years we have been issuing and selling common stock of our company. We have been borrowing the money on demand notes, and when they accumulate to a certain amount, we pay that borrowed money off by the issuance of common stock which is sold—in this particular case has been purchased by the American Telephone & Telegraph Company.

Q. So that whatever the source from which you secured the money to build that building, you must pay it off and you do pay it off by the issuance of securities?

A. That is right.

Commissioner Bricker: But your liability under your unexpected reserve for accrued depreciation continues through the whole proceeding?

Mr. Burr: Exactly the same.

By Mr. Burr:

Q. And if there could by some stretch of the imagination be any tagged dollars in your till which you have used for the purpose of building a part of that building, those tagged dollars would be replaced immediately by the money which you raised from the sale of securities against that improvement, wouldn't it?

A. Yes. We balance out our cash and requirements to [fol. 5362] conduct this business; and if we have got $2000 in the till, we don't go and borrow $2000. We borrow as little as we have to.

Section 12 shows for the years '25 through '29 inclusive, the gross additions to our fixed capital account by accounts. There again the standard accounts, for example our gross additions to our property in the year 1929 was $28,135,476.75.

I would like to just explain the red figures that appear under the year '27 there and '28 in the item known as construction work in progress. That is not to be interpreted that we have minus—for example in the year '27 minus $7,609,000.00 worth of construction work in progress. That is the difference in the amount of construction work that we had in progress at the end of 1927 as compared with 1926. It has to be shown in that way in order to balance it out. I thought someone might be a little confused there.

The next item, Section 13, is the withdrawals or plant retired from our fixed capital for the years '25 to '29 inclusive. The Section 12 shows what goes into the plant and Section 13 shows what goes out of the plant. These retirements from our fixed capital being charged to and against this depreciation reserve.

The last section which is section 14, is simply a reconciliation of the company's balance sheet for the five years. All of these statements, I might add, are in the Commission's files as a part of our annual report that we make each year to the Commission, and I have merely gotten them together here for that purpose. I would like also to add that if there [fol. 5363] are any of these points that I can clear up I am happy to do so in any way that I possibly can.

Mr. Burr: We offer Exhibit No. 1 in evidence.

Q. Mr. Eide, what is the rate of return upon the company's investment?

Mr. Herbert: I would like to save the right to object to parts of it after examination.

Commissioner Bricker: It may be admitted then subject to the right of the Attorney General to take exception to certain items at a later date.

And thereupon the exhibit above offered was admitted in evidence on behalf of the Ohio Bell Telephone Company, subject to the above restriction, and is herewith submitted marked Eide Exhibit No. 1.

Q. Mr. Eide, what is the rate of return from the company's investment for November and December, 1929 and January, 1930?

A. Unfortunately our rate of return is showing a downward trend. Approximately 5½ per cent the last three months.

Q. What was the company's station gain for the month of January?

A. 2,053.

Q. How does that compare with a year ago?

A. Approximately half.

By Commissioner Bricker:

Q. You mean your increase in subscribers is decreasing then?

A. Yes, temporarily, I hope.

Q. You mean the trend then is down in your return?

A. The trend is downward.

Q. That is not reflected in this exhibit in any place? [fol. 5364] A. No, that is not reflected there.

By Mr. Burr:

Q. Except for the year 19—.

A. The year 1929 shows a downward trend compared with the other.

Mr. Burr: Your Honor will see that in Section 6 where the rate of return is 5.19 per cent for the year 1929 as against 6.345 per cent for the year 1928.

By Mr. Burr:

Q. Section 6 shows the rate of return upon the average book cost of the company's investment to have been 5.919 per cent for the year 1929. What are the indications in respect of the rate of return on the company's investment for the year 1930?

A. The indications are that that return will probably be something less than that. I wish I were able to project just what it would be for the year 1930. Beginning the latter part of 1929 and following the stock market crash in November; there has been a considerable tendency downward in our revenue and in our net.

Q. Have all of the shares of the company's common stock, preferred and common, been issued with the consent and approval of this Commission?

A. Yes.

Q. At what rate did the company pay dividends on those shares last year?

A. 7 per cent on the common and 7 per cent on the preferred.

Q. Right. How much was left over after paying those dividends?

A. $163,080.

Q. And how much did the company fall short of earning its dividend in November, December and January last.

A. $174,486.00.

By Commissioner Klinger:

Q. You mean it fell short in earning its 6 per cent on the common?

[fol. 5365] A. 7 per cent on the preferred. The months of November, December and January are short——

Q. What rates——

A. I haven't got that rate figured out on the stock. I have got it on the investment, about 5½.

By Mr. Burr:

Q. What was the rate of return on the company's investment for November and December and January last?

A. 5½ per cent.

Mr. Burr: Is that near enough, Your Honor?

Commissioner Klinger: Yes.

Q. Are you familiar with the growth and changes in the plant of the Ohio Bell Company since 1925, or say during the past four years?

A. Yes. All the growth and changes have been under my direction and approval and general supervision.

Q. In dollars, what have been the gross additions for the years '26, '27, '28 and '29?

A. That appears in Section 2 of this exhibit, and totals in round figures perhaps approximately $90,000,000.

Q. Has the per cent condition or the value of the total property in present condition been changed as the result of the gross additions referred to in your answer as having been about $90,000,000?

Mr. Herbert: I object. Has he testified to the per cent condition of the total plant over the state?

Mr. Burr: I am asking him whether it has improved; I am not asking for the per cent, but whether it has improved during the last four years. Surely he is competent to testify to that. He is vice-president of the company and knows the amount of money that has been expended in the property and the way in which the property has been built.

[fol. 5366] Mr. Herbert: I object.

Chairman Geiger: Overruled.

Mr. Herbert: Exception.

The Witness: In my judgment the present condition of the property has improved each of those years.

Q. Why?

A. Well, for the reason that you can't expend $90,000,000 on a property without improving its condition; and during that same period there was approximately $28,000,000 of plant withdrawn, which in most cases was the older plant.

Q. Has it also been reflected in any changes in the service?

A. And furthermore our observations of the quality of our service shows a continuous improvement over those periods.

Mr. Burr: You may cross-examine.

By Chairman Geiger:

Q. May I ask one question as to your No. 14 item. Take it for the last year, 1929; you have certain liabilities that you have designated. Is there any provision made for the

possible liability you may have for return of some of the money you have collected; where would that be paid from?

A. You will notice down on the balance sheet there as of the year 1929, that we have a surplus of $6,365,632.88. There is one item of that surplus indicated as unappropriated——

Q. Well, in other words then, we are to understand that you have been conducting your business and keeping your books on the assumption that the rates that you are now collecting under bond are the proper rates?

A. Yes, sir.

Q. Those to which you are entitled; and if by chance you [fol. 5367] should be compelled to return any of it, you would have to take it out of your unappropriated capital reserve or some other place.

A. Surplus.

Q. That is correct, is it?

A. That is correct.

Mr. Calland: No cross-examination right now.

Mr. Herbert: We would like to reserve cross-examination of Mr. Eide until we have a chance to go into this Exhibit more extensively. It is the first time we have seen portions of it.

[fol. 5368] And also Louis C. West, called on behalf of the Ohio Bell Telephone Company, being duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Please state your name.

A. Louis C. West.

Q. What is your occupation, Mr. West?

A. An investment banker.

Q. With what firm of investment bankers are you connected?

A. The firm of Hayden, Miller & Company in Cleveland.

Q. Where is the principal office of that company?

A. In Cleveland.

Q. Has it any other offices?

A. No.

Q. Are you a partner?

A. Yes.

Q. Are you connected with any banking institutions or public utilities?

A. My only connection with banks is as a stockholder; and I have no connection with any public utility.

Q. What experience, if any, have you had in the matter of financing public utility companies during the past four or five years; public utility companies and industrial companies, if you please?

A. Our firm participates in what are called national syndicates, and also acts as underwriter.

Q. Has your firm, during the past few years, engaged in part in the business of buying and selling securities of industrial and public utility companies?

A. Yes.

Q. Now, by the buying and selling of securities, do you mean the purchasing of securities in large amounts and the [fol. 5369] selling of them subsequently to customers generally.

A. Yes, sir.

Q. And you also refer in that connection to securities of both industrial companies and public utilities?

A. Yes, sir.

Q. What has been the approximate amount of securities financed by your house for public utilities and other industrials during the past few years?

A. I can't give you an accurate answer to that. It is a figure that runs into many millions of dollars a year. I can answer it in another way; our bank deposits last year were over $100,000,000.

Q. That is the bank deposits of your firm?

A. Yes.

Q. And you keep that money constantly invested and reinvested in securities of that sort?

A. That is our gross turnover.

Q. Yes; and during the past few years have you been familiar with the financial market for the securities of such a utility as the Ohio Bell Telephone Company?

A. Yes.

Q. Are and have you been familiar with the conditions upon which such securities are issued; that is to say, with respect to the property and earnings of the utility on the one hand and the amount of securities which can be reasonably issued and sold by it on the other?

A. Yes, sir.

Q. Are you familiar with the revenues and expenses and the net income of the Ohio Bell Telephone Company for the past five years as shown by its annual reports for those years?

A. Yes.

Q. Are you acquainted generally with the property of the Ohio Bell Telephone Company?

[fol. 5370] A. I have a general acquaintance with its property, yes.

Q. Based on your knowledge of the property of that company, its financial requirements, the results of its operation from the standpoint of earnings, and upon market conditions in respect of securities of such a utility, what will you say as to the minimum amount which such a public utility must earn on the fair value of its property in order to attract capital to the enterprise?

Mr. Herbert: Just a minute. I would like to ask the opportunity to cross examine the witness first on this matter of qualification, on the preceding question to this one.

Commissioner Bricker: Does it make any difference whether you examine him now——

Mr. Herbert: Well, I don't want to make an objection to this particular question until I ask him a question or two.

Chairman Geiger: I think he has qualified himself enough to give his view on it. You can cross examine him as to his qualification.

Commissioner Bricker: Save your exception to this question.

Mr. Herbert: I can't object to the question except on the ground of qualification, and I just asked permission to cross examine him at this time on that phase.

Mr. Burr: I will be through in about two questions.

(Question read.)

A. At least 8 per cent.

Q. I neglected to ask you whether you are familiar in a general way with what has been the financial requirements of the Ohio Bell Company in the way of new capital during the past few years?

A. Yes.

[fol. 5371] Mr. Burr: Cross examine.

Cross-examination.

By Mr. Herbert:

Q. Mr. West, I believe you testified that your company has handled security issues of properties similar to the Ohio Bell Telephone Company?

A. Yes, sir.

Q. Could you name some of those?

A. Leaving aside all holding companies, and using the term utilities in its generally accepted sense, I would mention I think they call it the Southern Ohio Electric Company——

Q. That is a power company?

A. Yes. The Ohio Public Service——

Q. Another power company?

A. Another power company.

Q. Any telephone companies?

A. Yes. We have sold the bonds of a good many telephone companies; the Bell Telephone of Canada, Pennsylvania, the Southwestern Bell and New England Bell. That is all I can recall offhand.

Q. A. T. & T. owned companies, is that it?

A. Offhand, I can think of no telephone company other than A. T. & T. companies that have——

Q. Your firm has handled some of the bond issues of those companies?

A. Yes.

Q. Have you ever handled any stock issues for any telephone company?

A. Yes.

Q. In the past five years?

A. No, as far as my memory goes not within the last five years.

Q. And none in Ohio?

A. None within the last five years.

[fol. 5372] Q. Then your company has handled no securities comparable to the common stock of the Ohio Bell Telephone Company, has it, in the past five years?

A. No.

Q. So that you are not able to testify from any experience of your company that at least 8 per cent is required to attract capital to the common stock of a utility such as the Ohio Bell Telephone Company?

A. Would you mind repeating that question?

(Question read.)

A. On common stock the answer would be no. On other stocks the answer would be yes.

Q. What was the dividend rate on the bond issues which you have handled for the A. T. & T. owned companies?

A. They varied.

Q. Well, in what scope; how wide a spread?

A. If my memory is correct, in the time when money was particularly hard to get, they have been as high as 7 per cent.

Q. And as low as what?

A. As low as 5. I am speaking of operating companies now. I think the A. T. & T. has been lower, but not the operating companies.

Q. How low has the A. T. & T. come?

A. I believe as low as 4¾.

Q. You know that there is no Ohio Bell Telephone stock obtainable, of course.

A. Speaking of the common stock.

Q. Yes. Do you know of any preferred stock that is obtainable?

A. The preferred stock is quoted on several stock exchanges.

Q. What per cent does that carry?

A. It is a 7 per cent stock.

By Chairman Geiger:

Q. Quoted at about 114?

[fol. 5373] A. I wouldn't mention today's price. I should think that was about a point high, but I may be wrong.

By Mr. Herbert:

Q. What has that spread been for the past year?

A. I think just below 110, if I remember right, to 113 or 114.

Q. On the preferred stock of the Ohio Bell?

A. Yes, sir.

Q. Has that been the average for the last five years?

A. No. That stock has been below par since it has been sold.

Q. No, I am speaking of since 1925. When was it put out, do you know?

A. 1920 or '21 I think.

Q. And do you know the last time it was below par?

A. Well, I know it has been below par in the last ten years.

Q. Do you know of your own knowledge whether it has been below par in the last five years?

A. I think not.

Q. And for how long has it been 110 or better, to your recollection?

A. That is a matter of fact. I can express an opinion on that, but——

Q. Well, if you don't recall——

A. I don't recall. The accurate answer to that could easily be found.

Q. Yes. You, of course, know that American Telephone & Telegraph owns substantially all of the Ohio Bell Telephone common stock?

A. Yes.

Q. So that the matter of securing capital for the Ohio Bell Telephone Company as of any date from 1925 down to the present, hasn't been a matter of going to the public for money, has it?

A. Yes.

Q. It is a matter of going to the public?

A. I think the fact that the money comes immediately [fol. 5374] from the A. T. & T. is a matter of no importance in that connection.

Q. What is the common stock of the A. T. & T.?

A. 230—40.

Q. On a par of 100?

A. On a par of 100. The last stock——

Q. You still say that——

A. Absolutely.

Q. The fact that money comes from the A. T. & T. doesn't detract from the fact that it ultimately comes from the people?

A. Absolutely not at all.

By Chairman Geiger:

Q. Well, there is no common stock of the Bell Telephone Company to be procured by the public?

A. No.

Q. The A. T. & T. holds it all and doesn't sell it?

A. Yes.

Q. Sells its own stock, which is 9 per cent stock, and it is 232 and was up to 340, wasn't it?

A. Which is a matter of no interest to the A. T. & T. Company. I believe the last American T. & T. stock that went to the public cost the public $100 a share; and in other words cost the American T. & T. Company 9 per cent interest.

By Mr. Herbert:

Q. When was that?

A. It seems to me it was within this past year they offered rights to their common stockholders to buy American T. & T. common.

Q. Well, what were those rights quoted on the board?

A. I don't know.

Q. They immediately went above par, didn't they?

A. Yes, absolutely.

Q. About double their par value?

A. The rights would have no par value.

[fol. 5375] Q. Can't you construe a par into a right, a par value into a right?

A. I don't know how. A right is a permission to buy at a certain price.

Q. At par?

A. At par. But that is what the American T. & T. Company got.

By Commissioner Klinger:

Q. Did you mean to say that the A. T. & T. stock is no par stock?

A. No, I didn't. I am speaking about the rights.

By Chairman Geiger:

Q. Well, you don't think really that the question as to whether they are allowed a return of 7½ per cent or 8 per cent or 7 per cent on the present value of their property would affect the stock market of the A. T. & T., which sells their own stock——

A. Frankly I can't see myself why the American T. & T. enters into this at all.

Q. Well, I will tell you why. You came on the stand and said that in order to attract capital you must have an 8 per cent return upon the property invested.

A. Yes.

Q. Well, that hasn't been the history of the stock market in the last year at all. It has been up to a point where it doesn't—it isn't based upon the amount that they have been able to pay. New corporations have been formed that haven't paid any dividends and they have attracted capital all right. That isn't correct.

A. If it is proper I would like to say why I think 8 per cent is the proper figure.

By Mr. Burr:

Q. Go ahead. That is your right.

A. There are three reasons for that. In the last analysis the telephone company is in competition with every [fol. 5376] other person or company that wants money from the public. They have got to offer the investor statements, particularly earning statements, that provide enough earnings over and above their interest and dividends to protect the investor against the effect of a bad year or a series of bad years. They have got to have an earned surplus reserve. They have also got to have enough of a reserve to protect the user of the property against sudden and violent changes in the art, whether it is a railroad company or a telephone company.

By Mr. Herbert:

Q. What is the third?

A. The first was that there is competition with every other borrower of money, and the second was they needed a reserve to protect the investor. The third was that they needed a reserve to protect the user.

By Commissioner Bricker:

Q. Do you know of any instance in the past few years wherein the Bell Company has had any difficulty in attracting capital?

A. May I ask what you mean by the Bell Company?

Q. The Ohio Bell Telephone Company.

A. If my memory is correct, the last time the Ohio Bell Telephone Company went to the public directly was about 1920.

Q. They have had no trouble getting money for their

extensions and additions and betterments in the past ten years then, that you know of?

A. I don't know what their additions——

Mr. Burr: It has all been borrowed from the American Telegraph & Telephone Company.

The Witness: Whether it is easy to borrow or hard to do so.

By Commissioner Bricker:

Q. You have no actual knowledge then of the experi- [fol. 5377] ence of the Bell Telephone Company at all?

A. No.

Q. In fact, when you are handling securities which either directly or indirectly involve the income of the Ohio Bell Telephone Company, do you inquire into the amount of return that they are getting upon their property?

A. If I understand correctly, yes, we do.

Q. You do. Well now, when you mention that an 8 per cent return upon the value of the property is necessary in order to attract capital, what is your conception of the value of the property?

A. Well, my own personal opinion, and that I believe is all you are asking——

Q. That is it.

A. A fair reproductive cost.

By Mr. Herbert:

Q. Mr. West——

By Chairman Geiger:

Q. Now, just wait a minute. Now, Mr. West, do you, as a stock broker or a stock salesman, ever require the reproduction cost of any stock that you have ever sold?

A. A great many times.

Q. How do you do it; tell us how you do it. We would like to know how you get at it. We have been trying to do that five or six years.

A. Well,——

Q. Are you an expert on that?

A. I wouldn't say that I was an expert on anything.

Commissioner Bricker: That is what you are on the stand for.

The Witness: I have had experience in certain things, yes.

Q. Well now, no literature that is issued by anybody that wants to buy or sell their stock ever use anything about [fol. 5378] reproduction value; can you point me to a bit of literature that is circulated to the public inviting people to buy the securities of that company that ever says a word about reproduction value? Give the amount of money and the earning per cent and the amount of business they do, but if you can show me one statement that ever says anything about reproduction value I would like to see it.

A. In many circulars, hundreds of them——

Q. Well, will you send me one of them please?

A. Yes. You will see a line, "Property appraised by so-and-so".

Q. Oh, well, property appraised; that is another thing. Appraised by somebody. And how is it appraised? The visible property, but not on the reproduction theory at all.

A. Yes.

Q. Well, I would like——

A. There are many appraisals on reproductive value.

By Commissioner Bricker:

Q. You have been handling the preferred stock of the Ohio Bell?

A. Yes.

Q. And you have been handling the stock of the A. T. & T.?

A. Yes, in the same sense, as brokers.

Q. Have you noticed any difficulty in the sale of those securities, or has there been any reflection in the market of those securities of the fact that this company has according to its statement only been earning between five and 6 per cent?

A. I can't answer that question.

Q. Just one more question. Your judgment here is that 8 per cent return is necessary to attract capital?

A. In the long run, yes.

Q. Well, what do you mean by in the long run?

A. Looking ahead 20 odd years.

[fol. 5379] Q. Well then the past five years experience of this company wouldn't mean anything in your judgment?

A. It is too short a period, particularly if one brings in the question of market price of securities, because the last five years, as all of you know, has been a period of generally speaking of rapidly rising stock market prices, many of which have had no basis in anything except public delirium, if you want to call it that.

Q. We are talking about sound values, now. Suppose a utility which was protected in its income by the Utilities Commission, and has a long history, if your conclusion is proper that 8 per cent is necessary to attract capital, this company then during the past five years would have had a hard time attracting capital to its project; is that right?

A. I don't believe I quite understand what you mean.

Commissioner Bricker: I think the question is clear.

(Question read.)

A. I would answer that by "no"—I really don't understand the question.

By Chairman Geiger:

Q. Well, I think if you put it simply this way; that if the A. T. & T. Company had not stood ready to buy the common stock and take it up of the Ohio Bell Telephone Company, and the Ohio Bell Telephone Company would have had to go out in the open market and sell its common stock, would it have had difficulty——

A. Yes.

Q. In realizing par for its common stock?

A. Yes. I am sorry I misunderstood your question.

Chairman Geiger: Well I didn't get it either.

Q. The American Telephone & Telegraph Company is a holding company, is it not?

A. So I understand.

[fol. 5380] Q. It has no other assets than stock in subsidiary companies which it holds?

Mr. Burr: Holds long distance lines; transcontinental lines.

Q. And that is 9 per cent.?

A. 9 per cent.

Q. And is selling for 234. What return does that give to the purchaser of the stock?

A. It is less than 4 per cent.

Q. Less than 4 per cent., and it went up as high as 350, didn't it?

A. There is one thing that one has to in fairness say when you say 4½ or 5 per cent., whatever it figures out; people buy that stock and count it as income either mentally or directly the fact that every two or three years they get the right to buy 10 per cent. or 15 per cent. or 5 per cent. of common stock at par, and that——

Q. Count their rights as an extra dividend?

A. They will count on that over a long period of years to bring their average return to a much more attractive figure than four per cent.

Q. I don't think the A. T. & T. has sold any rights lately, have they?

A. About a year ago, if I remember accurately.

By Commissioner Bricker:

Q. Do you know the proportions of the preferred stock and the common stock of the Ohio Bell?

A. The common stock, I believe is one hundred million and the preferred stock approximately twenty-eight million.

Mr. Burr: That is right.

By Chairman Geiger:

Q. It hasn't changed in five years, the preferred?

A. No.

Q. Oh, it has changed a few dollars, but nothing substantial.

[fol. 5381] Mr. Burr: And the record shows that the Ohio Bell Telephone Company, Your Honor, has no outstanding bonds.

By Commissioner Bricker:

Q. You do not know where the Ohio Bell Company has attempted at any time in the last ten years to sell to the public any of its common stock?

A. No.

Commissioner Klinger: Well, that is admitted, that it hasn't.

Mr. Burr: It has not; that is right.

Chairman Geiger: Did you say, Mr. Burr, that it has no bonds?

Mr. Burr: Has no outstanding bonds. That is why the preferred stock sells at an attractive price.

Mr. Cahill: May I correct that? There is about five million of bonds outstanding.

Mr. Burr: Those are not the bonds of the Ohio Bell Company. Those are simply some underlying bonds on some property it owns.

Commissioner Geiger: Still they are responsible for the payment?

Mr. Burr: Oh, yes.

The Witness: I would like to amplify one answer. The prices of Ohio stocks in recent years has been affected by the tax exemption from the property tax; and in comparing the price of an Ohio stock with stocks outside, one has to give effect to that.

Commissioner Bricker: That is if it is sold in Ohio.

Chairman Geiger: That is the Ohio taxpayer values the stock——

By Mr. Herbert:

Q. Mr. West, you testified that one of your three reasons [fol. 5382] for the 8 per cent. requirement was that the telephone company was in competition with every other company; is that right?

A. In asking for money for the public.

Q. In other words, you don't distinguish between the Ohio Bell Telephone Company asking the public for money and the Kroger Grocery Company or a chain store operation?

A. Not in the asking for money. They are all offering what they think are certain things to attract public money.

Q. And you don't think the Ohio Bell Telephone Company has anything greater to offer the public than a nonutility, other than that both show 8 per cent. return; they will both have to show an 8 per cent. return to attract money?

A. No.

Q. Then will you amplify that?

A. In my own opinion I wouldn't buy the chain grocery if it didn't show a great deal more than 8 per cent.

Q. How much would you want that to show before your capital would be attracted by it?

A. It would be an awful lot because personally I don't like the business.

Q. Choose your own non-utility business, Mr. West and tell us how much you would expect them to show a return of before they could attract capital.

A. Good industrial preferreds are very seldom offered as investments unless they show earnings of at least four times on the preferred stock issued. That is not answering your question quite right——

Q. No, you are not even discussing the relation of their preferred to their common, so I don't think that answer is very applicable.

A. There is a risk in every business.

Q. Then you also gave as your second reason that reserves must be built up for the investor against bad years. Isn't that an operating figure rather than a net profit fig-
[fol. 5383] ure?

A. No, I think not. You take any company that over a period of years has just paid its dividend and no more, a bad year comes along and the investor in that company is out of luck.

By Mr. Burr:

Q. When you say it has just paid its dividends you mean just earned it?

A. Just earned its dividends.

By Mr. Herbert:

Q. And the third reason is that a reserve must be built up for the user. Do you know of any other necessary safeguard for that than the depreciation account of the Telephone Company?

A. To see that the depreciation account is big enough.

Q. Well, you want an additional surplus earned by a company then to make sure that they will always have an ample depreciation reserve?

A. Yes, to protect——

Q. And that enters into your estimate that 8 per cent. is necessary by way of return?

A. Yes; to protect me as a telephone user.

By Commissioner Bricker:

Q. Well, if the reserve then which is allowed, or the amount which is allowed out of expenses for the reserve by this Commission is adequate to all the needs of the company, taking into consideration the further fact there are no bonds on this company in any substantial amount, that you would have about 60 per cent. of your capitalization in preferred stock, should the company now put out an issue of common stock, do you think there would be any difficulty in selling that to the public, or it would be necessary to offer it at a premium?

A. I think on last year's showing that there might be difficulty.

Q. How do you account for the fact then that the pre- [fol. 5384] ferred stock is selling at the present time at around 113?

A. It has got a somewhat wider margin of earnings than your hypothetical company would have.

Q. But the company has paid the same, hasn't it, that the preferred has paid over the past several years?

A. I think the two—although that is a matter of fact; I don't know whether my remembrance of it is correct——

Q. Well, you so stated a while ago.

By Mr. Herbert:

Q. Mr. West, if you were shown that the Ohio Bell Telephone Company over a five year period on its own statement had not averaged 6 per cent. return; that the New York Bell Telephone Company over the same period had not averaged 6 per cent. return, that the Michigan Bell Telephone Company over the same period had not averaged that return, that the Illinois Bell Telephone Company in the same predicament, that the company operating in California is in the same predicament; would that tend to make you believe still that in the face of the present market of A. T. T. stock that an 8 per cent. return is necessary?

A. Yes.

Mr. Herbert: That is all.

Chairman Geiger:

Q. Well, if it would be true that these companies have paid or failed to pay any large return than has just been recited by counsel for the state, and the entire assets of

the A. T. & T. is made up of their common stock, how does it come the A. T. & T. has been able to pay a 9 per cent. dividend and sell its stock for 232?

A. I believe, although that is a matter of fact and I am only expressing an opinion, that the American T. & T. has things other than the common stocks of these companies. The American T. & T., as far as I know never sold [fol. 5385] common stock for $200 a share.

Q. Never sold their own?

A. I think not.

Chairman Geiger: Well, the stock is bringing it now.

By Mr. Herbert:

Q. An unofficial dividend; isn't that what it is? That granting of rights to its own stockholders?

A. It is a means that they are using for raising capital.

Q. Isn't it an unofficial dividend to those stockholders?

A. No, I think not. I see the point you are trying to make. If a man holds it, his average rate of income per year is increased because he can go out and buy stock for 230 if he wishes to, and a year or two hence he will get a little piece that he pays $100 for and a couple of years more another little piece that he pays 100 for, and his rate of income will increase each time.

Q. I mean is it anything but an unofficial dividend when the A. T. & T. can put that same stock on the market at the approximately then quoted market price of its own stock?

A. I don't know that they could.

Q. I don't know whether they could or not; but if they had the power?

Mr. Burr: When you say if they could, you mean you don't know whether they could do it if they had the power to do it?

The Witness: Yes, absolutely. I have no means of adjudging how much stock the market would absorb at $240 a share.

By Mr. Herbert:

Q. Well, maybe I should have asked you this question at the start, or someone; that you have been talking quite some time that in your opinion at least 8 per cent. would be

required to attract capital, an 8 per cent. return. Now, [fol. 5386] have you testified on what basis that return should be computed?

A. I think I answered the question saying on the fair reproductive value of the property.

Q. And not on the capital investment?

A. No.

Chairman Geiger: Not on the stock issued.

The Witness: The only real value of anything is where that property can be put to proper use.

Q. Would you say an 8 per cent. return would be a fair return to attract capital for such a utility as the Southern Ohio Electric Company?

A. I would put them in a category where a little more——

Q. On a reproductive basis?

A. Yes; where a little higher rate of return would be necessary because——

Q. How much would you think they should earn?

A. 9 to 10 per cent.

Q. And what is the other company; Ohio Public Service?

A. I think I would be willing to take them on 8.

Q. On 8. You think an 8 per cent. return for the Ohio Public Service would be an attractive return to draw capital?

A. Yes.

Q. For the Ohio Public Service; not for the Southern Ohio?

A. No.

Q. Power Company, and yet you realize that there is nothing in the law of Ohio to prevent a competitive utility from springing up in the very center of the Ohio Public Service field?

A. There is——

Q. And there is a law to prevent a competitive telephone Company in the State of Ohio?

A. Yes. There is a practical difficulty in the way of the other, and that is getting the money.

[fol. 5387] By Commissioner Bricker:

Q. You know there is some pretty fierce competition in Ohio among power companies in certain localities.

A. Yes, sir.

Q. Would that affect your judgment as to the return necessary?

A. Well, the more competition the bigger return that you would expect, because in estimating what you think a property ought to earn you have to take in the factors of competition.

Q. Have you taken that in in figuring the amount you said would be necessary for the Ohio Public Service to earn to attract capital?

A. Yes, sir.

Q. Well, they have competition, haven't they?

A. Yes.

Q. What is the advantage then that they have that would bring their rate down to the rate that you fix on the Bell Company?

A. Well, as I recall the figures for that company it is a fairly large well established company. It is not dependent on a small area such as this other company that I mentioned.

Q. What about the Ohio Bell Company; is it dependent upon a small area or is it a small company in your opinion?

A. No.

Q. You still haven't distinguished between the two?

(No response.)

By Mr. Herbert:

Q. Mr. West, if you could obtain $10,000 worth of Ohio Bell stock today of par $100 stock, if you could obtain 100 shares of that for $10,000, knowing that you would get $600 a year out of that, do I understand you to say that you would not consider that an attractive investment?

A. I would not, on the common stock.

[fol. 5388] Mr. Herbert: That is all.

By Chairman Geiger:

Q. Do you know what the American Telephone & Telegraph Company pays to the Ohio Bell Telephone Company for its common stock?

A. I do not.

Q. Does it pay par?

A. I do not know.

Mr. Burr: It does pay par, Your Honor, yes. That is according to the records here.

[fol. 5389] And also G. SCHNEIDER, recalled on behalf of the Ohio Bell Telephone Company, having been duly sworn, testified as follows:

Examined by Br. Burr:

Q. Are you the Mr. Schneider who on the afternoon of Wednesday, February 10th, 1926, testified in respect of the proper annual rates for depreciation of plant and equipment applicable to the Ohio Bell Telephone Company?

A. Yes, sir. Those annual rates were shown in my exhibit 1, No. 4.

Q. Since the date of your testimony, have you made a further investigation or study of the annual rates for depreciation of plant and equipment and amortization of landed capital?

A. Yes, sir, during the past four years I have spent a large amount of time investigating and analyzing the various elements which enter into the make-up of the annual rates for depreciation, such as the cost of removals, gross salvage, service life and extraordinary repairs.

Q. Based on those studies and investigations, since your last testimony on the subject, have you revised your judgment as to the proper annual rates which should apply to the various classes of depreciable telephone property owned by the Ohio Bell Company?

A. I have. I have prepared a table which sets forth in detail the various annual rates which in my judgment measure or give the rate at which the various classes of depreciable property are consumed annually in rendering service.

Mr. Burr: It may be marked for identification Schneider [fol. 5390] Exhibit No. 21, and we offer it in evidence.

Thereupon the exhibit above offered was admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted marked Schneider Exhibit No. 21:

Q. Will you please explain it please, Mr. Schneider?

A. This Exhibit 21 sets forth the classes of depreciable plant, the life in years or service life, the per cent. net salvage, the per cent. net loss and the per cent. extraordinary repairs and the per cent. annual rate. The first column "Class of Plant" indicates the various classes of depreci-

able property for which the company has established an annual rate of depreciation. The second and third items from the bottom of the page, "Exchange and toll right-of-way", are not at the present time classed as depreciable property but are classed as landed capital, and the company sets up what they call amortization of landed capital rather than depreciation of plant and equipment for those two classes of property.

The second column "Life in years", is the result of my investigation and is my judgment as to the life which these various elements of telephone property have in the telephone plant as a whole. The per cent. net salvage indicated in the next column is the result of subtracting the cost of removal from the gross salvage for the various types of plant indicated. The per cent. net loss in the next column is the result of subtracting the per cent. net salvage from 100 per cent. The per cent. extraordinary repairs indicated in the next column represents the extraordinary [fol. 5391] repairs encountered in five classes of property as indicated, most of these repairs being incurred in connection with casualty such as sleet storms, wind storms and floods. Extraordinary repairs are the repairs over and above the cost of normal repairs in connection with the restoration of service after the property had experienced one of the casualties which I have previously mentioned, any one of the casualties.

The per cent. annual rate indicated in the last column is the per cent. net loss divided by the life in years, plus the extraordinary repairs.

Q. Had the annual rates which you show in your Exhibit No. 21 been applied to the appropriate plant accounts during the years 1924, '25, '26, '27 and '28, what would have been the result insofar as the expense of depreciation for plant and eqipment and amortization of landed capital is concerned?

A. Had the rates indicated in Exhibit 21 been applied to the appropriate depreciable property accounts for the years 1924, '25, '26, '27 and '28, the amount of depreciation expense for each of those years would have exceeded the amount actually provided by the company for that purpose.

Q. Those rates were not then applied during those years, were they?

A. No, sir.

Q. All right, what have you to say as to the annual rates used or applied by the company for those years?

A. The rates used and applied by the company for the years previously mentioned were too low in my judgment.

Q. What have you to say as to the use of the annual rates shown in your Exhibit No. 21 for the ensuing period say of the next three years, 1930, '31 and '32?

[fol. 5392] A. In my judgment the rates indicated in Exhibit No. 21 are the proper rates to be used.

Q. Calling your atention to one or two other points in respect of which I would like to have you clear up the record, and referring particularly to the company's appraisal of land, its Cleveland land, and more particularly still to parcel No. 18 in Cleveland; do you know what that parcel is?

A. Parcel No. 18 at Cleveland is property known as 732 to 750 Huron Road.

Q. And what occupies it; what is that building?

A. The company's headquarters building.

Q. It joins parcel No. 19, doesn't it?

A. Yes, sir, which is known as 720 to 730 Huron Road.

Q. Take parcel No. 1 in Springfield; what occupies that piece of real estate?

A. The company's commercial offices.

Q. And it was begun when?

A. On the 10th day of May, 1927.

Q. Take parcel No. 18 in Columbus; what occupies that property, if you know?

A. The Company's Lawndale central office.

Q. And the building of that central office commenced when?

A. On the 13th day of May, 1927.

Q. The next and last one is parcel No. 17 Columbus; is that in use for telephone purposes?

A. I would say it is, yes, sir.

Q. And when did it begin to be used for those purposes?

A. On the 5th day of April, 1924.

Q. And still in use?

A. Yes, sir.

Mr. Burr: That is all. You may cross-examine.

[fol. 5393] Mr. Herbert: We can't do it at this time.

Cross-examination.

By Mr. Calland:

Q. What is this parcel 17 in Columbus?

A. That is the one that has the extension to our University office in it.

Q. Will you tell us a little more, Mr. Schneider, just what that is?

A. Yes. The University central office out there is located on two lots, and the front part of one set of lots has some residences on it now, but the office has been extended to the back of these residences and occupies a certain portion of these residence lots.

Mr. Burr: Parcel No. 18, Mr. Calland, if you want that, is the Lawndale central office. That is on the corner of Indianola and Oakland Park Avenue.

Mr. Herbert: We have no questions right now.

By Chairman Geiger:

Q. In your Exhibit 21, your first line is building, 750 Huron Road, and you mark that "Special" all the way across. You mean that is special as to that particular building?

A. Yes, sir, special treatment.

Q. Special treatment is given to that. And then all buildings below follow in the next line, follow in the next line below?

A. That is correct.

Q. Buildings. Do you mean by that all Bell Telephone buildings throughout its Bell system?

A. Throughout the state of Ohio, yes, sir.

Q. And you have the life in years of the building as 25?

A. Yes, sir.

[fol. 5394] Q. And you have then its present net salvage would be 20?

A. Yes, sir.

Q. And its net loss would be 80; is that correct?

A. Yes, sir.

Q. And you have other items there that are given a certain life in years?

A. Yes, sir.

Q. Now, have you compared your table here with the table of the engineer who appraised this property and gave its present value?

A. Oh, these figures have nothing to do with the present condition of the property.

Q. Well, what have they to do with?

A. These have to do with the operating expenses.

Q. Well, will you tell me as an engineer why your experience in operating expense hasn't anything to do with actual, observable depreciation which has obtained? I can't get my mind to grasp the fact that you can say when you are appraising the property that it is depreciated at a certain rate and it is in so many per cents of condition, and then when you get your operating revenues you go over and make out an entirely different list for your depreciation. Why hasn't that got anything to do with each other?

A. Visible depreciation represents such facts as wear, tear, rust, rot and decay that are apparent to the eye; but there are a lot of other factors of depreciation besides wear, tear, rust, rot and decay——

Q. Don't go so fast. Now, would you say that your appraisement that had been made by your engineers in which they have made a per cent. condition only has to do with wear and tear, rust rot and decay?

[fol. 5395] A. Yes, sir, that is that I am willing to consider.

Q. It hasn't anything to do with obsolescence or any other matter?

A. Well, I don't think that there is any obsolescence.

Q. You are of the view that nothing is obsolete until it is discarded?

A. Right.

Q. Well, that is the same then as lack of use. The statute recognizes two things; it says for age, lack of utility and obsolescence and what else?

Mr. Calland: Decay.

Q. On page 9 which has Section 499-9, under Sub-division E it says "Depreciation, if any, from the new reproductive cost as of a date certain, for existing mechanical deterioration," now, that would be wear and tear, wouldn't it?

A. I take it yes.

Q. "For age"; what does that mean?

A. Well, the only way age will enter into it would be the result of wear and tear, rust, rot and decay.

Q. Well, wear and tear would be very pronounced in a

short period of time. What does age mean; anything different from what we ordinarily understand age to mean?

A. I don't think it does.

Q. Well, you don't make any deterioration for age then?

A. No, sir, unless it is evident.

Q. "For obsolescence"; you don't make any deterioration for obsolescence?

A. I would not.

Q. "For lack of utility"?

A. I don't quite understand what that means.

Q. Well, you are an engineer, aren't you, appraising [fol. 5396] according to the statutes of the state of Ohio.

A. Lack of utility in one instance may be a factor, although I can see where a particular item of property may be insufficient in size or inadequate for the particular use it is being put to at that particular time; by being removed and reinstalled in some other location would be wholly adequate, and its lack of utility would have disappeared.

Q. Well, you have treated lack of utility as equivalent to obsolescence?

A. Well——

Q. And discarded obsolescence and don't consider it at all?

A. Understand, the rates I have been referring to here are not to be connected in any way whatsoever with the present condition of the property.

Q. Well, we will get to that a little later. And the statute also says that the percentage and amount of each class of depreciation, if any, is to be specifically set forth in detail. You don't believe there is any detail other than wear and tear?

A. That is my personal opinion or impression.

Mr. Burr: You mean——

The Witness: Well, wear, tear, rust, rot and decay.

Q. Well, rot and rust is wear and tear by the elements, isn't it?

By Mr. Herbert:

Q. I would like to ask one question if the Commission please. Didn't you testify here a few minutes ago, Mr. Schneider, that there are other elements of depreciation than ordinary wear and tear, rust, rot and decay?

A. In connection with the determination of the expense for depreciation, yes.

Q. But not in connection with estimating the present con-
[fol. 5397] dition of the property?

A. Oh, no.

Mr. Herbert: That is all.

By Chairman Geiger:

Q. Well, what I want to get at, and you can explain it as well as anybody because you seem to be right up on these things; why do you say that past experience of observable depreciation upon a line that is existing and been in use for a number of years has nothing to do with what you expect the depreciation to be in future years on which you are making an estimate; why haven't they got anything to do with each other?

A. Suppose we had set aside no reserve at all.

Q. That is not the question. The question is, isn't the experience of a depreciation over a period of years that has actually existed, been examined and testified to, a basis upon which to judge what the depreciation shall be?

A. Absolutely; that is right.

Q. Well, you said they hadn't anything to do with each other.

A. I am talking about the rates which I have set up here by measuring the annual expense of depreciation as against what you would find in making your physical inspection of the property. There are more elements in my annual rates for depreciation than are considered in going out and making a physical inspection of the property.

By Mr. Herbert:

Q. What elements are they?

A. The element of growth, municipal requirements, storms, fires, floods. Those things are not evident in the property at any particular time, but they must be taken care of, as an operating expense.

Q. As an operating expense?

A. Absolutely.

[fol. 5398] Q. Then why should they be considered in a depreciation study?

A. They are taken care of in account 608 which Mr.

Geiger was speaking of this morning, which is expense of depreciation to plant and equipment.

Mr. Burr: This is the basis of your depreciation expense?

Mr. Herbert: I grant you that; but how do you compute those things in a depreciation study when you say that those things are taken care of in operating expense?

By Commissioner Bricker:

Q. What is the average figure in your computation here under Exhibit No. 21?

A. You mean the composite rate that this would produce?

Q. Yes.

A. I think that it produces something between 5.4 and 5½ per cent. Of course, the composite is nothing more or less than a manufactured figure, you understand.

By Chairman Geiger:

Q. Well now, you have herein life in years under column A we will say 50 years for a conduit.

A. Yes, sir.

Q. That mean that it ought to depreciate at 2 per cent a year?

A. It does, yes, sir.

Q. To cover the 50 year period. Well now, suppose underground conduit had been down for 20 years——

A. Yes, sir.

Q. Then it ought to have a 40 per cent depreciation.

A. Not necessarily.

Q. Well, why?

A. It probably would be in just as good condition the day you inspect it 20 years after the date of installation as the date of installation.

Q. Then how are you going to tell if it is good in 20 years, it will play out in 50 years?

[fol. 5399] A. That is a judgment figure. We haven't had enough experience with conduit to make a definite study. I would like to have you take one with a ten year life——

By Mr. Burr:

Q. Now, explain to Judge Geiger why, if as you say at the end of 20 years it might be just as good condition as when it was installed, you still have to make some allow-

ance or to make some preparation financially against the time when something else may happen to it.

A. Oh, yes; the Interstate Commerce Commission and this Commission, as I understand it, require that we shall set up annually such an amount that at the end of the service life of the particular piece of property we shall have enough to retire that property. Now, conduit on that basis, with a 2 per cent annual rate—we will establish that as a straight line—now, at the end of 20 years if we dig up that conduit, we will find that there are non-depreciable items of conduit used in the conduit; for instance the concrete and the tile. There is nothing in those two elements to depreciate—of course, there may be during the course of the 20 years some patched spots on account of digging machines tearing up a portion, or a slight sinking in spots or something like that; but the structure itself will practically be in the same condition as the day it was installed. But we do know that the end of 50 years this conduit will, in all probability, be retired, either abandoned because of some other method used in carrying cable, or on account of re-routing of particular cable lines, possibly the establishment of a new office at some location or subway excavations for rapid transit, or mail tubes or large sewers or something of that character.

[fol. 5400] By Chairman Geiger:

Q. Then why shouldn't you take that anticipated discarding of this underground cable because of the advance in the art and apportion some of that back to its present condition under the general term obsolescence, its progressive obsolescence?

A. It is not evident at the time you inspect it that there is any such——

Q. Well, you are just making a good guess it will happen at some time; that is about all you can say?

A. We are endeavoring to protect our property; that is all.

Q. Well, that is all right. Now, you have exchange aerial lines; you have the life of that at 13 years, and you have that it will cost you 20 per cent more than the salvage to take it down?

A. That is right.

Q. And it is a net loss of 120 per cent?

A. Correct.

Q. At the end of 13 years?

A. Yes, sir.

Q. Now, if you turn to your engineer's appraisement of the property you will find there aerial wires that are up and have been up for 15 years or more, and he put the present condition at only 80 per cent or at 80 per cent with a depreciation of 10 per cent.

A. Well, but he has a lot of wires in there that have only been up two or three weeks.

Q. And a lot that have been up 15 years?

A. And the average in my judgment is 13 years.

Q. Well, get this in your head and answer it if you can and if you can't say you can't answer it or don't understand it. You will find in your appraisement that there are wires that have been up for 15 years, of aerial wires, and that when you get your appraisement or your engineer's estimate of its present condition it will be 89 per [fol. 5401] cent condition. Now, I am assuming that is so because it has happened numbers of times. Now, if it has been up 15 years and is in 89 per cent condition, how can you say that at the end of 13 years it is 20 per cent worse than nothing? Now, that is what you said in your engineer's report.

A. This 13 years, Mr. Commissioner, applies to all of our aerial wire. It doesn't apply to any——

Q. Why should there be any difference in the aerial wire?

A. Well, there is a lot of difference.

Q. Well, what is it?

A. There is copper——

Q. Well, copper?

A. And there is galvanized iron.

Q. Galvanized iron.

A. Yes, sir.

Q. Well, copper. Which do you cover with this 13 years?

A. Practically all of that, of course, is iron wire.

Q. What about copper wire?

A. That will be shown down under toll, 20 years.

Q. Well, there are plenty of copper wires that are not toll wires, aren't there?

A. Not in our plant.

Q. What? Are all copper wires toll wires?

A. Practically all of our copper wire is toll wire. I am talking of open wire.

Q. Well, open wire; open copper wire.

A. Yes.

Q. All toll line?

A. Practically.

Q. Well, what is that, your toll?

A. Toll aerial wire.

Q. Toll aerial wire you say will only last 20 years?

A. Yes, sir.

Q. It is copper isn't it?

A. Yes, sir.

Q. Well, why would it wear out in 20 years?

A. Municipal requirements, growth and other factors taken into consideration cause the retirement of that [fol. 5402] property before it is worn out.

Q. Then oughtn't that to be considered under obsolescence?

A. No, sir, not at the time the property is being inspected.

Q. The property wouldn't be worn out, the wire wouldn't be worn out at the end of 20 years?

A. No, sir.

Q. But you anticipate that some municipal ordinance will compel you to take it down?

A. Reroute it, probably, yes, sir.

Q. Where is this copper wire that is going to be rerouted?

A. In a large number of cases our copper wire is being substituted with cable on account of growth.

Q. That is in the center of the city?

A. No, out in the country between large toll points now.

Q. Well, toll wire.

A. Yes, sir.

Q. Yes. Well, that is all right; I am glad to see you doing that. But isn't there an element of obsolescence then in the wire that still hangs up and hasn't yet been replaced by cable?

A. I can't see it, no, sir, as long as it is being used and rendering 100 per cent service. The condition of the wire itself is probably at all times, 95 or better.

Q. And will last a hundred years?

A. If it is not molested.

Q. Well, then the element that you say will be discarded in 20 years is the fact of the progress of the art——

A. Fires, floods, storms, growth.

Q. Well now, what has been your experience in the past about fires, floods and storms?

A. That is all included in our 20 year life, which is [fol. 5403] based on the actual experience of the company.

Q. Well then, why hasn't it been reflected in the present condition of the property?

A. Well, Mr. Geiger, you can't reflect floods, fires and storms which haven't happened, in the physical condition.

Q. Well, but you have an experience of what has happened in the last 20 years to show what will happen in the next 20 years.

A. And I have taken care of those in the annual rate we have set up.

Q. Well now, you say, as an engineer, from the experience which you have gained of the past life of the telephone company extending over a period of 25 years as to its obsolescence and its wear and tear and of its being useless hasn't anything to do with an estimate of what will happen in the future 50 or 25 years?

A. So far as the condition per cent is concerned, no, sir.

Chairman Geiger: All right.

Mr. Burr: That is all.

Mr. Thompson: If the Commission please, we have talked with Mr. Calland and Mr. Herbert about the date for argument in this case, so that the time may be running, and further cross examination of the witnesses who were on the stand today, so we could have a date set now for the oral argument.

Commissioner Klinger: Are you through at this time?

Mr. Burr: Yes.

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Date of next hearing for further testimony March 12, 1930, at 10:00 o'clock A. M.

[fol. 5404] Date for concurrent filing of original briefs, April 1st, 1930.

Date for filing reply briefs, April 8th, 1930.

Date for oral argument April 15th, 1930.

Thereupon the further hearing of this matter was continued until March 12th, 1930, at 10:00 o'clock A. M.

[fols. 5405-5474] Wednesday Morning Session

March 12, 1930.

* * * * * * *

[fol. 5475] STIPULATION

Mr. Burr: It is understood that except for the possible introduction of the specifications for automatic telephone systems for the United States Veterans' Hospital Bureaus at the bid prices covering those specifications, this case is now submitted to the Commission for its determination of the tentative value of the property involved?

[fol. 5476] Mr. Calland: Yes, sir.

Mr. Burr: Will you swear to it?

Mr. Calland: Yes, sir.

Mr. Herbert: Yes.

Mr. Burr: Mr. Calland says yes, sir, and Mr. Herbert says yes.

And thereupon the protestant, the State of Ohio, rested.

And the foregoing is all of the testimony offered, introduced and admitted on behalf of The Ohio Bell Telephone Company and on behalf of the State of Ohio on this hearing of this matter.

* * * * * * *

[fol. 5477] Morning Session

April 15, 1930.

Chairman Geiger: Are we ready, gentlemen, to proceed?

Mr. Thompson: We are ready, Your Honor.

Mr. Burr: Your Honors, there have already been offered in evidence tables and calculations in connection with Mr. Eide's testimony, and for the convenience of the Commission we have thought that it would be expedient also to prepare and offer in evidence a statement showing for the

years 1925 and 1929 inclusive, and as of December 31, 1929, a statement showing the book cost of fixed capital, construction, work in progress, materials and supplies, and one-twelfth of the telephone operating revenue, simply made up in the form of an exhibit so that anyone can refer to it who wants to.

Commissioner Bricker: You are just using that as a part of your argument?

Mr. Burr: We would like to offer it in evidence. We could have offered it as a part of Eide's Exhibit No. 1.

Mr. Calland: We have no objection.

Commissioner Bricker: It may be admitted.

And thereupon the exhibit above offered was admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted marked Eide Exhibit No. 2.

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[fol. 5478] J. J. Moriarty, called on behalf of The Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Mr. Moriarty, will you state your name and place of residence?

A. J. J. Moriarty, Cleveland, Ohio.

Commissioner Bricker: How do you spell that?

The Witness: M-o-r-i-a-r-t-y.

Q. What position do you occupy with the Ohio Bell Telephone Company?

A. General traffic supervisor.

Q. How long have you occupied that position and what has been your experience in the telephone business prior to that time?

A. I have occupied that position for two years. Just prior to that time, I was general toll traffic supervisor for one year. For the seven years prior to that, I was division traffic supervisor in Atlanta, St. Louis and Cleveland.

Q. With Bell System Companies?

A. Yes, sir.

Mr. Thompson: Mr. Moriarty, pardon me, but I wish you would speak up just a little bit louder. I can't quite get it.

Commissioner Geiger: We have to talk against the riveters over on that building.

Q. Before that time, what was your telephone experience, if any?

A. Before that time, beginning as night operator in Boston in 1899, I occupied various minor positions in Boston, Providence, New York, Chicago, Philadelphia and Washington, D. C.

Q. With Bell System Companies?

[fol. 5479] A. With Bell System Companies.

Q. You have for some time past been engaged in making traffic studies and analyses to be used in making a separation of the company's property between intrastate and interstate usage, have you not?

A. I have.

Q. Will you please tell the Commission in your own way just what you did, by way of making that separation?

A. In the first place, I will start by explaining what was done in apportioning between interstate and intrastate of toll circuits.

Q. That is to say the circuit usage?

A. In apportioning the use of the toll circuits between interstate and intrastate.

Q. On the basis of usage?

A. This apportionment was made on the basis of usage and was based on a 20 day record of toll traffic taken in the month of May, 1925, and subsequently.

Q. Yes. Why did you take the month of May?

A. In this territory we have found that the month of May represents average traffic conditions as regards distribution over the various circuits.

Q. That is right, proceed.

A. The record comprised a count of every toll message originating in the State of Ohio, on which an Ohio Bell toll circuit was used in whole or in part and was taken for four consecutive weeks on each of the full business days, Monday to Friday, inclusive.

Q. Yes. Now, when you refer to those messages, I understand you to mean toll messages originating at any office in the Ohio Bell territory and handle- wholly or in part over Ohio Bell toll lines; is that correct?

A. Yes, sir.

Commissioner Geiger: Well, does it include messages

[fol. 5480] that originated outside of Ohio and were delivered over the toll lines in Ohio?

The Witness: Yes, sir.

Commissioner Geiger: That is incoming and outgoing messages.

The Witness: Yes. I will explain how that was done. We secured from the Associated Companies adjacent to the State of Ohio, bordering on the State of Ohio, a similar count of the messages originating in those states and terminating in the State of Ohio on which an Ohio Bell toll circuit was used in part or in whole.

Commissioner Geiger: Well, now, right at that point, why did you in trying to make an analysis of the use of your property exclude from your consideration Saturday and Sunday both?

The Witness: Well, our whole study from the traffic department standpoint was made on average business day usage. Probably that is because we engineer on that basis of average business day or maximum day, and Saturdays and Sundays are not representative of the traffic, and taking the average business day we get a perfect picture, you might say, of the traffic handled over our lines. Of course, Saturday and Sunday traffic is substantially lower than that of the average business day, as we call it, Monday to Friday.

Commissioner Geiger: I was just wondering what effect it would have on your general allocation of property to toll use by excluding two days which are less in use for toll services than the other five days, whether you get an accurate picture unless you include the whole week.

[fol. 5481] The Witness: As I see it, it will have no effect on it, because in our allocation, using this average business day traffic, we get, as I see it, a complete picture.

Commissioner Geiger: All right.

The Witness: Now, for all other traffic originating outside of the State of Ohio and terminating in the State of Ohio for which an Ohio Bell toll circuit was used, we considered a count of such inward toll messages to be the same as the originating toll messages in the State of Ohio and terminating at these same points. That is approximately correct and represents accepted telephone engineering practice. In other words, that is the way we engineer our toll lines on that basis.

By Mr. Burr:

Q. Did your investigation require the analysis of individual toll tickets?

A. Yes, sir.

Q. About how many?

A. About a million tickets, a million tickets. In that four weeks, say in the month of May, there was an analysis of approximately a million tickets.

Q. How did you obtain the total message minutes use of each toll ticket?

A. We obtain the total minutes message use of these toll tickets by multiplying the holding time, that is to say, the average conversation time, plus the operator's work time, plus any incidental holding time, by the total number of messages, the messages first having been separated into inter and intrastate messages.

Q. And they being the messages handled over the toll circuits that you have referred to?

A. Exactly.

Q. What about the circuits rented by the Ohio Bell?

A. There were certain toll circuits of those circuits rented by the Ohio Bell Company, they were treated in exactly the [fol. 5482] same manner as the circuits of the Ohio Company. There are in addition certain circuits which originate and terminate within the State of Ohio, but for part of the distance are routed through some adjacent state. These circuits and the traffic handled over them were treated as interstate. A case in point, an example, is Columbus-Steubenville circuit, which is routed via Wheeling, West Virginia, and originates and terminates in the State of Ohio, but goes through the State of West Virginia for part of the distance, and such a circuit in our study is considered as interstate.

Q. You have used the term "traffic use". Tell the Commission just how that use was measured?

A. By comparison of the holding times.

Mr. Herbert: Comparison of what?

The Witness: Comparison of holding times.

Mr. Burr: Holding, h-o-l-d-i-n-g.

Q. And what do you mean by the holding time?

A. The holding time in the sense that w- have used it represents the average conversation time plus the opera-

tor's work time, plus any incidental use or any incidental holding time, multiplied by the number of messages. In other words, as an incident——

By Commissioner Geiger:

Q. Well, now, right at that point, are you paid according to the holding time or some other time? Does your revenue depend upon the holding time?

A. You mean paid by the subscriber?

Q. Yes.

A. For toll messages only for the—well, and for other messages, for that matter, for the conversation time. That is, conversation time we assume to be the time, the interval in which the calling subscriber is connected with the line of [fol. 5483] the called subscriber.

Q. Yes, I understand that.

A. Now, there is some other holding time incident to establishing that connection and waits for the particular person called, and that sort of thing, and that, in apportioning our circuits and our equipment has been taken into consideration.

Q. I see the point, but I was just wondering how that would come out, because you are trying to separate your income and your expenses as between interstate and intrastate. You have taken into consideration the holding time, but the holding time is not the revenue producing time. Conversation time is the revenue producing time.

A. Well, perhaps I can make it a little clearer——

Q. I understand the difference all right, but I was wondering what effect that has upon the——

A. Of course, there is the incidental holding time on both classes of traffic, inter- and intrastate, and in point of fact it is a little higher, substantially, you might say, higher on interstate than on intrastate, because of the longer haul, greater number of switches and that sort of thing, so that feature has been taken into consideration in our study. In other words, for a hundred messages, the interstate holding time would be greater and greater for the average than for a hundred messages intrastate.

By Mr. Burr:

Q. And the holding time to which you refer and which you used in your studies was the over-all holding time?

A. Yes, sir.

Q. In making your studies, what treatment did you accord the central office equipment?

A. Well, in the first place, the toll boards naturally were allocated entirely to toll, and the exchange boards to toll [fol. 5484] and exchange in accordance with the use of those switchboards for each of those classifications.

Q. That is to say, in the proportion that the exchange switchboards were used for each class of traffic respectively?

A. Toll and exchange.

Q. Toll and exchange.

Commissioner Bricker: That was allocated upon a time basis?

The Witness: Yes, sir.

By Mr. Burr:

Q. On the over-all holding time basis?

A. Yes, sir.

Q. Proceed, if you please, with your discussion of the treatment which you accorded the central office equipment?

A. In order to obtain the proportion of the exchange equipment used for toll and exchange——

Q. You are referring now particularly to switchboards?

A. Yes, sir.

Q. Go ahead.

A. We made a traffic study of about 137,000 local service observations. These observations included observations of A-B toll traffic, which traffic is handled by the exchange operator. Now, if it would help any, I might say at this point I will have occasion to refer to A-B toll calls and toll board calls and exchange calls, those three classifications, and while you are undoubtedly familiar with an exchange call and a toll call, you may not be familiar with the two classes of toll calls. Now, the A-B toll call is a call handled by the exchange operator. She reaches the terminating office and station called without going through the toll board; therefore, it is handled right at the exchange board. [fol. 5485]. Q. Those are calls to nearby points, are they not?

A. Generally speaking to very short haul points.

Mr. Burr: Your Honors understand that?

Commissioner Geiger: That is the call we get when we

call the long distance, they say, "Hold the wire", and immediately connect us with the destination?

The Witness: That might or might not be so.

Commissioner Geiger: All right.

The Witness: A toll call may be handled—but it is the operator whom you first call that establishes the connection on an A-B call.

Q. Now, from those observations, if I understand you, there was determined the holding time of the equipment for exchange and A-B calls?

A. Yes, sir.

Q. Including the conversation time?

A. The work time.

Q. And the operator's time?

A. Incidental holding time.

Q. And any incidental holding time?

A. Yes, sir. In addition, the holding time of the exchange equipment for toll board calls was obtained by what we call a jack count or trunk count. In effect, this is a count of the busy trunks between the exchange board and the toll board. Now, having gotten for total trunks between the exchange board and the toll board the total holding time of such trunks, we divided that holding time by the number of messages handled during the period in which the count was taken and thereby arrived at the average holding time of such equipment per toll board call.

Q. How did you determine the total usage?

A. Well, the total usage was obtained by multiplying the average conversation time plus the work time, plus any incidental holding time, by the number of calls, that is, by [fol. 5486] the exchange calls, toll board calls and A-B calls respectively.

Q. That is to say, the exchange calls and the A-B toll calls and the toll board messages were multiplied by their respective holding time?

A. Respective holding times, that is right.

Q. To obtain the call seconds' use for all classes?

A. Yes. Now, on the board to board theory——

Q. That is the board to board basis, you are referring to?

A. Board to board basis.

Q. Yes.

A. Exchange switchboard is charged entirely to exchange, and in those offices where there is no A-B toll traffic, the

exchange boards are entirely exchange. But in those offices where there is some A-B toll traffic, why, the exchange switchboards were charged to toll and exchange in accordance with their use for those two classes of traffic.

Q. That is, with the use of the equipment for those two classes?

A. Use of the equipment, yes, sir.

Q. What about the station to station basis?

A. Well, on the station to station basis, the equipment is separated into toll and exchange.

Q. You are now referring to the exchange central office equipment?

A. Exchange central office equipment was separated into toll and exchange in accordance with the use of the equipment for——

Q. That is the switchboard equipment?

A. Switchboard equipment, for each of the three classifications as determined, as I have described, from the holding time of exchange calls, A-B calls and toll board messages, multiplied by the number of such calls and messages. [fol. 5487] In all cases the board to board and station to station bases, the calls and messages service observations were based on the traffic of the four months, January, April, July and October. That represents a fair cross-section of the traffic for the year.

Q. Having determined those separations, how did you determine the usage measured in call seconds which was intrastate and that which was interstate?

A. On the board to board basis the portion of the exchange board used in handling A-B calls was separated into toll and exchange——

Q. You mean into interstate and intrastate?

A. Into interstate and intrastate on the basis of call seconds' use for each of those classifications; that is to say, the toll calls were separated into inter and intrastate.

Q. What further separation was made of the use on the station to station basis?

A. On the station to station basis there was a further separation of the balance of the exchange board I just described, the A-B toll portion was taken out and separated into inter and intrastate. Now, on the station to station basis, the balance of the board was separated into intra and interstate by applying to the total messages——

Q. Total messages?

A. Total messages,—the total message seconds, rather, total toll seconds' use of the exchange board, the inter and intrastate percentages applicable to the toll board, that is to say, the percentages from which we separated the use of the toll board proper.

Q. As I understand you, with respect to your last answer, you did that by applying to the total message seconds toll use of the exchange board the inter and intrastate per- [fol. 5488] centages applicable to the toll board traffic?

A. Yes.

Q. You have discussed the exchange board. How is the interstate and intrastate separation of the toll board determined?

A. In the first place, the toll boards were considered entirely toll and separation of these boards in the inter- and intrastate usage was based on a special traffic study taken at all toll centers.

Q. That is Ohio Bell toll centers?

A. All Ohio Bell toll centers. From this study the operator's work time for both classifications, interstate and intrastate messages, was obtained, and to these holding times were added the average conversation time, inter and intrastate. The average holding time for inter and intrastate messages thus obtained were multiplied by the inter and intrastate messages.

Q. That is the average interstate and intrastate messages?

A. And the percentage of each classification was thus obtained.

Q. All right for the toll boards. How was the separation between inter and intrastate made for private branch exchanges, station apparatus and station installations?

A. Well, on the board to board basis, there were no part of the private exchange lines, equipment, station installation, chargeable to toll.

Q. It wasn't considered as toll, was it?

A. Not considered as toll.

Q. Proceed.

A. On the station to station basis, we did make a separation between exchange and toll. In the first place, we subtracted from the total use that use of the subscribers' lines, station equipment, properly chargeable to intercommunicating service, that is to say, call from one extension

[fol. 5489] to another, that was considered entirely exchange.

Q. That is, the intercommunicating service of the P. B. X. was considered to be 100 per cent. exchange on that basis, was it not?

A. Yes, sir.

Q. Go ahead.

A. Then the balance of the subscribers' lines, station equipment and so forth, we made a separation on the same basis as the separation of all other subscribers' lines and stations. That was done, of course, on a basis of holding times.

Q. Yes.

A. We made the study on the subscribers' premises at, to be exact, 782 private branch exchange boards, the study being made on the basis of personal observations of the entire time that the board and station equipment was in use for intercommunicating services and for all other purposes.

Q. What was done in the separation of subscribers' stations and lines to determine the total toll usage of that part of the plant?

A. On the board to board basis no part of the subscribers' stations and lines was considered as toll. On the station to station basis, the toll use of the subscribers' stations and lines was determined from a study of holding times on exchange calls and A-B toll calls and toll board messages, and those multiplied, those calls, messages, multiplied by their respective holding times gave us the use.

Q. That is, those holding times were applied to exchange calls and A-B calls and toll board messages?

A. That is right.

Q. How was the separation between interstate and intrastate toll usage of subscribers' stations and lines made?

[fol. 5490] A. The toll use of subscribers' station and lines was determined as just described and the apportionment interstate and intrastate was made by applying to this toll use the composite percentage representing the use for A-B toll traffic and toll board traffic.

Q. That is, you apportioned it to interstate and intrastate by applying to the toll use the composite percentage of A-B and toll board traffic determined to be inter and intra-state?

A. Exactly.

Q. In order that the accounting department might properly allocate operators' wages between interstate and intrastate, was it necessary for you to make a study of those expenses?

A. Well, I didn't make any study of the expenses, Mr. Burr. I did make a study of the operators' time, the operators' work time.

Q. Right.

A. All of the operators' work time for the operation of the toll board is, of course, chargeable to toll. And the separation of this work time into interstate and intrastate was made on the basis of the traffic work units in each classification. When I say traffic work units, that means the operator's work time.

Q. Which kind of work time governs that separation?

A. This differs somewhat from what I said before because the work time governs in this case rather than the holding time, because we pay on the basis of the work time rather than the holding time. This was separated into interstate and intrastate on the basis of the separation of the toll board use interstate and intrastate.

Q. Yes. That was on a basis of the study in which the [fol. 5491] tollboard work units were separated into inter and intrastate?

A. Yes, sir.

Q. Proceed.

A. Now, on the board to board basis, a portion of the exchange operators' time is chargeable to toll for the handling of A-B toll calls. This was determined by comparing the work units of the exchange operator which handled the A-B toll calls to the total exchange work units.

Q. That is, the latter representing the total work time of the exchange operator?

A. Yes. This was then divided between inter and intrastate on the basis of the relation of the A-B calls interstate and intrastate to the total A-B calls. Of course, all of the exchange time was chargeable to exchange. The A-B time was chargeable to toll and that was separated into intrastate and interstate in accordance with the proportion of each classification.

Q. A-B calls being, of course, toll calls?

A. Yes, handled by the exchange operator.

Q. Proceed.

A. Now, on the station to station basis, a modification of this separation was necessary because of the work of the exchange operator in making connection to and from the toll board. The relation of these units of work of an exchange operator in making these connections to the total work of the exchange operator——

Q. That is the total exchange unit?

A. Total exchange units.

Q. Yes.

A. Was obtained. This was then separated, that is to say, the time of the exchange operator in making these connections between the exchange board and the toll board was separated into inter and intrastate on the same basis [fol. 5492] that the toll board usage was separated into inter and intrastate.

Q. Yes. As I understand it, the relation of those units of work of the operator in making the connection to the total exchange units gave the percentage considered as toll?

A. That is it.

Q. And that was separated between inter and intrastate by the application of the percentages, inter and intrastate, as determined for the toll boards?

A. From the study.

Q. Will you please give the commission some idea of the amount of work done by your people in determining the various factors to which you have been testifying?

A. As nearly as I could estimate, the traffic department used about 2900 man days, or 9½ years of one person.

Q. Well, it represents the equivalent, to put it in another way——

A. It represents the equivalent of 38 people working for three months.

By Commissioner Geiger:

Q. Well, now, as I understand, this was done in 1925, did you say?

A. Not in 1925. That was done, a portion of it, in 1928, and portions of it afterwards.

Q. I understood you to have said when you started that your study was done in 1925?

A. Was based on the traffic of 1925. We had to go back

to the records of the 1925 traffic, but the work performed was done subsequently.

Q. It wasn't a study made extemporaneously with the service furnished, it was simply a study of the record?

A. It was not done at the same time, if you use extemporaneously that way.

Q. Could you say that this work that you have testified to at present was done in accordance with the suggestion [fol. 5493] made in the case of Smith versus the Illinois Commission by Judge Hughes, follows out his suggestion?

A. Yes, sir.

By Mr. Burr:

Q. That is to say, for the station to station basis?

A. For the station to station basis. We, of course, have made the study, as I have tried to describe, on the basis of both the board to board basis and the station to station basis, the station to station basis part of the study being made in accordance with the plan which I think you have in mind.

Q. Have the results of your analysis been furnished to both Mr. Wilson and Mr. Brett of the company, they being witnesses who will follow you?

A. Yes sir, they have.

Q. In passing, let me ask you what percentage of the total calls handled by the exchange apparatus was toll calls?

A. About one and one-half per cent., Mr. Burr.

Q. What was the relation between the holding time for toll calls and exchange calls?

A. The holding time of a toll call was about three times as great as an exchange call.

Q. Did you for the years 1924 to 1930 from the actual count of the exchange and toll calls and by the application of holding time data to the respective classes of calls determine the per cent of toll traffic use to total traffic use?

A. Yes, sir.

Mr. Burr: You may cross-examine.

Mr. Herbert: If the Commission please, I would like to ask a few questions now, but I don't want to be——

Commissioner Geiger: That is correct. You may cross-examine now, with proper reservations for further cross-examination.

[fol. 5494] Cross-examination.

By Mr. Herbert:

Q. When were these studies commenced, Mr. Moriarty, that you have been testifying to?

A. Now, I might say, I would like to give you a complete picture if I can——

Q. Certainly.

A. (Continuing) That this, the data from which we separated these toll circuits was, to start with the toll line engineering data that we gathered for that purpose, our regular procedure of toll line engineering.

Q. At that time?

A. That was in 1925. But, of course, that data was not gathered with respect to inter and intrastate percentages and we had to separate it into inter and intrastate.

Q. Well, that would be true of the board to board basis too, wouldn't it?

A. That, of course,—there is no board to board or station to station basis on the toll circuits. They were all toll and they are either interstate or intrastate.

Q. Well, maybe we will get at it better if you will explain a little more what you mean by data, toll circuit data as of 1925, isn't that what you said?

A. Yes. In 1925, a study was made, not with a view to use in a rate case, but for the purpose of engineering our toll lines. That comprised a count of every toll message originating in the State of Ohio as I have described.

Q. In that month of May?

A. In that month of May, 20 full business days, Monday to Friday, inclusive, four consecutive weeks.

Q. In other words, then, for your toll engineering back [fol. 5495] in 1925, you actually made a study of this approximately million calls?

A. That is the idea. Now, it was a further separation of those messages and the use into inter and intrastate that we made at this time.

Q. You mentioned, I believe you said something about 1928, didn't you, a while ago, some of this work was done in 1928?

A. Some of this work was done in 1928, I believe there was some question about the rate case hearing at that time, we did some of the work at that time.

Q. You say it took 38 people three months?

A. That would be the equivalent of that yes.

Q. That includes what work was done in 1925?

A. Not any, no. In other words, the work was done in the normal course of business, that is, the toll line engineering or any other phase we have not considered that as any work performed in connection with the gathering of this data. That we had and used it as we needed it, but we did not consider that in this.

Q. How many people did you have working on this in preparation of your testimony to be given to——

A. That is in preparing the data?

Q. Yes, approximately?

A. Why, we had—I would have to get that because the work was distributed around. I should say offhand that it would represent 20 people working for six weeks.

Q. I understood this data which has been turned over by you to Mr. Wilson and Mr. Brett has been prepared under your supervision.

A. Yes.

Q. And that has been going on for the last six weeks, [fol. 5496] is that correct?

A. Sometime around the first of February and up to the present time.

Q. Last six weeks or two months?

A. Yes. Well, February, March, April.

Q. Three months?

A. Two and one-half months.

Q. But you picked it up from the data which has been compiled as of 1925?

A. Partially that. Certain factors were not determinable, that is, had not been determined back in 1925, so that we had to determine them at this time, and we considered that they were representative as well of the 1925 conditions. That would apply to some of the holding times that I have mentioned which would be——

Q. When you speak of holding time, how was that ascertained, Mr. Moriarty?

A. Well, as I said, we had about 137,000 local service observations, that is, observations——

Q. What are local service observations?

A. That is something that we take to get a measure of a service that we are giving.

Q. Of local service?

A. Of local service, but it includes observations on the A-B toll calls which are also handled by the exchange operator.

Q. It does not include observations on toll board calls?

A. No. We take separate observations for the toll board calls. Now, from the observations, we would determine the holding time on the local——

Q. Or an A-B call?

A. Or an A-B call. Now, the toll board holding time is a little different proposition. We have between the toll board and the exchange board a number of trunks, what we call recording trunks and switching trunks. Recording trunks, [fol. 5497] there is nothing about the name of that, perhaps, that would imply to you just what that trunk is, because that trunk may be used only for the recording of a call from a subscriber, that is, it is a trunk which the calling subscriber uses to call the toll operator, reaches the toll operator. The call may or may not be completed, he may or may not hold conversation on that trunk, depending on the character of the equipment.

Q. Maybe I can reach it in another way. You don't purport to have a record of the actual holding time involved in that million long distance calls, do you?

A. Why, no.

Q. What I mean is, you make what you call a service observation?

A. Yes.

Q. On a grouped number of calls?

A. Yes.

Q. That is entirely a-part from the operators that are handling it, you have observers on duty to check the length of calls on this particular group of test messages, is that it?

A. No, we are taking observations regularly all the time. I might say that we took the observations for January, April, July and October, and we studied those observations, those months representing a fair cross-section of the year, and we determined the various intervals which go to make up the total holding time. We get that together and we say, "There is the holding time of an exchange call, including the "subscriber's conversation." Now, that might apply to

this month, but it would apply to six months ago and it would apply to six months hence.

Q. So that the holding time that you allotted to this million messages as of May, 1925, was not necessarily an ob-
[fol. 5498] served holding time on that million messages?

A. That is right.

Q. I just want to get the thing straightened out in my own mind?

A. That is right.

Q. Now, when you speak of jack count or trunk count, is that a physical count of circuits in use?

A. Yes. And that, by the way, accounts for quite a few of the so-called man days that we have in there. It is rather a large piece of work, it requires—in other words, we have any number, I won't attempt to say the number of trunks, between the toll board and the exchange board. Now, these counts, as I have said, were taken at the toll board, operator at the toll board, a large number of operators. For example, in our Cleveland office it took 52 operators, 52 employees, to make these counts as they had to be taken all at the same time.

Q. That is operators in excess of those operating the board?

A. That is the idea. Now, that worked by the process of testing the trunk running through. Each one is allotted a certain number of trunks and she tests those trunks with the tip of her cord. Now, if the trunk is busy, she gets a signal which indicates busy, whereupon she tallies that as a busy trunk. Now, at the end of an hour or we will say at the end of a period, we took this for a fifteen hour period, eight A. M. to 11:00 P. M. Now, at the end of that period this total group of trunks, we had a total number of these tallies, we took them at two minute intervals. Now, multiplying that total number tallies by twelve seconds, that is the two minute intervals, gave us the total number of seconds [fol. 5499] use of those trunks. Do you get that? It is a little difficult.

Mr. Herbert: That is all right. I just wanted to get it straightened out in my own mind.

By Commissioner Geiger:

Q. Now, do I understand that you can assure the Commission that your having taken the holding time in reference

to the allocation of property for interstate and intrastate use instead of the conversation time will make no difference in the result of your allocation of that for these two services?

A. Practically not any. There is, for example, interstate usage for conversation time is greater than intrastate usage for conversation time. In the same manner, holding times are somewhat greater, about the same relation, than holding times for intrastate traffic. In other words, we find too—that is neither here nor there, the conversation increased with the length of haul. So in a way that helps to explain the interstate average conversation being higher than the intrastate conversation.

[fol. 5500] And also A. F. Wilson, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Will you state your name and place of residence?

A. F. Wilson, Cleveland, Ohio.

Q. By what company are you employed and in what position?

A. The Ohio Bell Telephone Company, Assistant Vice President.

Q. How long have you occupied that position?

A. Since January of this year.

Q. Will you tell the Commission briefly your experience with the Ohio Bell Telephone Company?

A. The positions that I have held previous to my present one were general plant manager, chief engineer, division plant superintendent, district plant superintendent, supervisor of plant operations. I believe that goes back to 1921 when the Ohio Bell formed.

Q. Are you a graduate of any university or technical school, and if so, what one and when were you graduated?

A. The University of Toronto; I graduated in 1908.

Mr. Burr: Does the Commission require any further qualification of this witness?

Commissioner Geiger: Not if counsel for the state does not.

Mr. Burr: Counsel says no.

Commissioner Geiger: It is admitted by counsel for the State that the witness is qualified.

Q. Are you familiar with the items of the Ohio Bell's [fol. 5501] property, as of June 30, 1925?

A. Yes, sir.

Q. Are you familiar also with the additions, gross and net, to the property since that date?

A. Yes, sir.

Q. Did you make a separation of the company's entire property as of June 30, 1925, between that used in interstate business and in intrastate business, that is to say, on a usage basis as between those two classes of property?

A. Yes, sir, I did.

Q. Did you make the separation on the basis of the book values or the appraisal values, and by the appraisal values, I mean the appraisal values introduced in evidence by the company in this case?

A. On the basis of the book value.

Q. Why?

A. Because the book figures more nearly compare with the Public Utilities Commission's tentative valuation figures and because that method follows the year by year extension, of valuation used by the company in this case. Of course, in using the book figures, I do not consider that the fair value of the property as of any date is as low as the book figures.

Q. Does the Ohio Bell Telephone Company own any property outside of the State of Ohio?

A. No, sir, practically none.

Q. To what factors then have you given consideration in separating the property as between interstate and intrastate on the basis of use?

A. There are several factors and that question will require a long answer. I will read from my notes on that subject.

Calls are made in each direction between subscribers of The Ohio Bell Telephone Company and subscribers of other [fol. 5502] telephone companies in other states.

These calls are of four general classes:

a. Exchange calls from stations located in Ohio, but served by a nearby central office located in another state, to station in the other state served by the same central office

and vice versa, e. g. Sharon, Pa. exchange serves some subscribers located in Ohio.

b. Exchange calls from stations in Ohio served by an Ohio Bell central office to nearby stations in another state served by the same central office and vice versa, e. g. E. Liverpool, Ohio, exchange serves some subscribers located across the Pennsylvania line.

c. Toll calls to and from points in other states.

d. Free service exchange calls between Ohio exchanges near the border line of another state and nearby exchanges in the other state, e. g. Bridgeport, Ohio, and Wheeling, West Virginia.

Also there is the leasing of conductors to form a part of interstate circuits used as private lines, such as brokers lines to New York.

Also the leasing of property to the American Telephone and Telegraph Company for its use in conducting interstate business, such as floor space in Ohio Bell Telephone Company's buildings, paid for by the A. T. & T. Company.

The interstate traffic included in items (c) and (d) which are the toll and free service traffic items, involves two elements of interstate usage. On some free service exchange calls there is an interstate use of subscribers' stations and of the outside plant and central office equipment associated [fol. 5503] with them similar to the use on any exchange call. The percentage of such plant representing its inter-state usage is the same as the percentage of inter-state calls to total calls. There is in addition to this usage, however, a use of the free service trunks which is 100% interstate usage. Therefore, that portion of the exchange plant used represented by such free service trunks, is 100% interstate.

Q. What is the situation with respect to toll calls?

A. On toll calls to interstate points, there is the use of subscribers' stations and associated plant for reaching the exchange switchboard and for connection to the trunks extending from the exchange switchboard to the toll switchboard.

In addition to the above, there is on toll calls the use of the recording and switching trunks to connect from the exchange board to the toll board, the use of the toll board itself and the use of the toll lines to the toll offices in other states.

These latter items of plant are used for toll purposes only, but as only a minor portion of toll calls are interstate it is necessary to determine what portion of such plant is used for interstate. Direct circuits from cities in Ohio to points outside the state are owned in most cases by the American Telephone and Telegraph Company and where this is not the case, only that part of the circuit within Ohio is owned by The Ohio Bell Telephone Company.

The toll switchboard operating required to handle all toll traffic in Ohio Bell territory including that required on A. T. & T. messages is handled by toll switchboards owned by the Ohio Bell Telephone except that a small portion of the A. T. & T. toll traffic at Cleveland is handled by the A. T. & T. [fol. 5504] Company on toll switchboards owned by it.

Q. Will you describe the system of toll line distribution in Ohio?

A. In general, the Ohio Bell Telephone Company owns and operates toll lines which handle the traffic from any one of their exchanges to any other. It also owns the lines or portions of lines connecting with the exchanges of other telephone companies in Ohio.

The American Telephone and Telegraph Company owns interstate circuits extending from the principal centers in Ohio to similar centers in other states. These circuits, however, do not reach all of the towns in the Ohio Bell Territory. An outgoing interstate toll call from such a town, therefore, is passed over an Ohio Bell toll circuit to the nearest center where an interstate circuit can be reached, and the Ohio Bell circuit over which the call has been thus passed is then connected to the interstate circuit. Similarly an incoming interstate call to a town not reached by an A. T. & T. circuit is first passed to the toll operator at the nearest A. T. & T. center and she completes it by connecting to an Ohio Bell circuit reaching the desired exchange. In this way toll circuits of the Ohio Bell Telephone Company which are primarily intrastate circuits are also used for inter-state calls.

Q. In determining the portions of plant which are interstate or intrastate, does the holding time of a subscriber's line enter into the calculations?

A. Yes, sir, the holding time of a toll call is considerably greater than on an exchange call, and in considering toll calls, we have to multiply them by the holding time of a toll call and similar by the appropriate holding time for ex-

[fol. 5505] change calls when we use that traffic to apportion the use of subscribers' lines for equipment used on both classes of calls. The holding time, as Mr. Moriarty explained, includes the conversation time and the work time and other incidental use.

Q. Now why in considering the holding time and making your separation on the basis of use does the holding time include not only the conversation time, but the time the line is held or made busy while completing the toll service?

A. Because the plants have to be furnished for such use. We have to have toll circuits to put the calls through and pass the messages to the distant end as well as for use on the conversations themselves.

Q. And you are not making a separation on the basis of conversation time, but on the basis of usage, are you not?

A. Yes, sir. This entire separation is based on the usage of the plant.

Q. And usage includes not only conversation time but any other usage time?

A. It is the time used, held, or made busy for any purpose.

Q. Right. Can this separation of the property on a usage basis be determined from an analysis of either the book values or measurements?

A. No, sir. The books do not contain the information necessary to make a separation of interstate property.

Q. Will you explain to the commission why that is true?

A. We do not keep any separate record of the plant measurements except for instance for these free service trunks. We do keep a record of the plant measurements [fol. 5506] used for toll lines, but this record, of course, does not reflect the interstate usage. We do not keep a record of the toll switching trunks which are a part of the exchange plant, a part of our inter-office trunk plant of which we only have the record for the total.

Q. Or of the recording trunks, do you?

A. Or of the recording trunks.

Q. You don't do it in either case; that is correct, isn't it?

A. Yes, sir. There are also other parts of the exchange plant used for bringing the toll lines in from the exchange border to the toll office. We do not maintain any separation whatever reflecting the use of our central office equipment. That is all one account.

Q. Do you keep any record of the usage of any of your plant as between interstate and intrastate usage?

A. No, sir, none whatever, not interstate in that respect.

Q. Explain then, if you please, how you made these separations?

A. It was necessary to gather special data and make calculations to determine the amount or percentage of exchange plant use for the various purposes involving interstate usage, which I have previously mentioned. It was also necessary to determine the percentage usage of the toll plant shown on the books for interstate. This was done in detail for the property as of June 30, 1925, and also as of June 30, 1928.

Q. How did you develop the usage of each class of plant for interstate purposes?

A. We developed that as a percentage of the total quantities of the various classes of plant and applied those respective percentages to the books as of June 30, 1925, and [fol. 5507] as of June 30, 1928.

Q. You applied it to the book value for each class of plant as of June 30, 1925?

A. Yes, sir, we got the percentages generally as to quantities of plant and then applied those percentages to the values in money as shown on the books.

Q. Right. What about the results of those studies?

A. We used the results of those studies to separate other years from 1924 to 1930. We had the percentages as of those two dates for each class of plant, so from the analysis of the underlying items or the known trends and things which caused or reflected interstate usage, we modified those percentages and applied them to the remaining years of that period.

Commissioner Geiger: Didn't you ask what they were?

Mr. Burr: No, I haven't asked him that yet.

The Witness: I have a statement of the results of the separation here, Mr. Burr.

Mr. Burr: Yes. That will follow later in his testimony.

By Mr. Burr:

Q. Will you describe in greater detail, if you please, the principal operations and calculations necessary to determine the intrastate usage of the property?

A. In connection with toll calls we first had to determine what percentage of the traffic over Ohio Bell toll lines was interstate. This involved not only the number of messages

and the holding time, but distances over which the respective calls were transmitted over Ohio Bell toll lines. In order to care for the element of distance we had to treat the toll lines by groups. This was done by analyzing about a million toll tickets which Mr. Moriarty referred to, recording [fol. 5508] the messages by groups, the million tickets were sorted by the groups. From the destination and other information of these tickets, we determined for each message whether it was routed outside the state. The number of interstate and intrastate messages were then multiplied by their respective holding times. The total minutes for the tickets classified as interstate gave the minutes' use of the particular group of circuits for interstate traffic and the total minutes for the intrastate gave the intrastate use. The percentage relation of interstate message minute use to the total message minutes' use was applied to the quantities of wire plant composing the individual circuit groups.

Q. For what purpose?

A. In order to determine the portion of the wire plant devoted to interstate use. Then by totalling the inter and intrastate portion of wire plant on all circuit groups, we determined the percentage of the total of the various kinds of toll wire plant inter and intrastate. As previously stated, some conductors in the exchange plant are used for completing toll calls. These were determined from an analysis of our assigning records and treated similarly to the toll line plant. In the case of switching and recording trunks used indiscriminately for completing calls from various toll circuit groups a composite interstate percentage of all toll calls cancelled over these trunks was determined from the analysis of toll calls. That was not the same analysis that was used in preparing individual circuit groups, it was a composite. In the traffic figures used to determine the interstate use of recording and switching trunks, American Telephone and Telegraph Company traf- [fol. 5509] fic as well as Ohio Bell traffic had to be considered.

Q. Did that procedure give a separation of conductors as between inter and intrastate?

A. Yes, sir. These conductors were of various kinds, that is, there are aerial cables and underground cables and open wire, and we separated each of those classes. There is plant associated with or supporting that wire plant, such as poles and conduits, and those were pro-rated in accordance with the separation of the Associated wire plant.

Q. Wire and cable plant?

A. Yes, sir, wire and cable.

Q. Will you please proceed, discussing next the separation for central office switchboard use?

A. Central office switchboard used on toll, except that used by the operator, by the exchange operator in connecting subscribers to the toll board, was determined from an inventory prepared from our detailed central office records which identified the particular pieces of equipment used for this purpose; that is, it identified whole boards or identified parts of the exchange boards used exclusively for toll, but did not identify them used in common. In addition to that equipment which could be specifically identified, there were some central office equipment such as power plants, used in common, for both toll and local calls. These were pro-rated in accordance with the percentage usage determined from detailed studies of traffic, storage battery drain figures, etc. We had to use two or three different methods to properly pro-rate those different items of commonly used equipment. The percentage of toll central office equipment representing the interstate use was determined from an analysis of toll [fol. 5510] traffic such as previously described. Now, in that case, the traffic figures included calls completed entirely over lines of the A. T. & T. Company as well as those of the Ohio Bell Telephone Company.

Q. Will you next explain how you applied your separation methods to the free interstate exchange service or of border line exchanges?

A. The plant use for interstate free service trunks was determined in a manner similar to the determination of exchange plant use for toll lines and was classified as 100 per cent interstate. The interstate use of subscribers' plant in the respective Ohio exchanges due to such free interstate calls was determined by taking a count of calls at the switchboard. The percentage of interstate calls to total exchange calls in a given exchange was considered to be the percentage of the subscribers' plant in that exchange devoted to interstate use. In that particular case, the calls were all exchange calls of exactly the same nature except that sometimes there was a man living across the river and the holding time would be the same. There was no attention paid to holding time in that particular separation.

Commissioner Geiger: Do you think this would be a good time for adjournment?

Mr. Burr: All right.
Commissioner Geiger: To what time?
Mr. Burr: One thirty.
Commissioner Geiger: One thirty.

And thereupon a recess was taken until 1:30 o'clock P. M. of the same day (April 14, 1931).

[fol. 5511] Wednesday Afternoon Session

April 14, 1931.

And also A. F. Wilson, resuming the stand, continued his testimony as follows:

Examined by Mr. Burr:

Q. How did you determine the classification of the Ohio Bell property involved in serving stations located in Ohio, but served from central offices located outside of the State as between intrastate and interstate?

A. We determined the amount of property in Ohio serving such stations from our plant records and classified such property as 100 per cent interstate.

Q. What did you do in the case of stations outside of Ohio served by central offices in Ohio?

A. The plant serving the stations outside of Ohio was considered to be the same percentage of the total plant in a given exchange as the percentage of total stations located outside the State.

Q. Now then, as I understand it, the plant serving the stations outside of Ohio was therefore considered as 100 per cent interstate?

A. Yes, sir, that would be a hundred per cent interstate.

By Commissioner Geiger:

Q. Now, right there, those plants, however, are nearby to the Ohio Exchange, they don't pay any toll, they render free service?

A. The case we are speaking of now is an Ohio exchange serving some stations outside the State, but a part of the same exchange.

[fol. 5512] Q. Well, there is no toll rate collected for that service?

A. No, sir, this interstate separation isn't entirely toll. These people in Ohio call subscribers in the other state

through the same exchange on a regular exchange call without any toll charge or toll line use.

By Mr. Burr:

Q. It isn't a toll call, is it?

A. It is exactly the same as someone calling from Bexley to Arlington if Bexley and Arlington were in separate states, but all served by the Columbus exchange.

Mr. Herbert: Didn't you say a hundred per cent interstate?

Mr. Burr: Interstate.

Mr. Herbert: You mean the property is valued as a hundred per cent interstate property?

The Witness: The portion serving those stations which are outside of the State, not the entire property of that exchange.

By Commissioner Geiger:

Q. Now, does that place the ordinary service, not toll, at interstate service?

A. Yes, sir.

Q. Suppose, for instance, you had an exchange near the line of Ohio and had subscribers over the line and they paid the monthly service, would that monthly service, irrespective of the fact that it was not toll service, be interstate?

A. Yes, sir, we considered that that was an interstate message, regardless of whether it was merely an exchange call or a toll call; just as much as a toll call would be. The message is an interstate message.

Q. Well, suppose a person living in Pennsylvania called [fol. 5513] the Steubenville exchange and talked to someone in Pennsylvania, you wouldn't call that an interstate service, would you, came over to Steubenville to make a connection and went back and talked to somebody in Pennsylvania?

A. We would actually have included that as an interstate call.

Q. What makes it an interstate call, because the wire comes over and goes back again?

A. Yes, sir. There is very little of that involved in this, but what little was would have been under our methods

included as interstate, and that is our understanding that those messages would be interstate messages.

Q. Didn't you a bit ago in speaking of the Steubenville exchange where there was some connection with Pennsylvania and back again to Steubenville classify that as not interstate service?

A. I don't remember mentioning that, Your Honor.

Q. All right, pardon me for interrupting.

A. I believe Mr. Moriarty mentioned toll lines to Steubenville going outside of the State.

Mr. Burr: Let's get that straight. Your question is that Mr. Wilson in speaking of the Steubenville situation referred to lines going outside of the State as being intrastate?

Commissioner Geiger: Being intrastate, yes.

The Witness: Were those the toll circuits——

Commissioner Geiger: Well, I am not going back over it. Somebody testified about that this morning. Never mind. Go ahead. It is in the record.

By Mr. Burr:

Q. Do the methods which you have described allow for and reflect all interstate usage?

A. The methods——

[fol. 5514] Commissioner Geiger: Pardon me just a moment, I think it was the other witness. Mr. Bricker, if he will, may state his recollection of the testimony.

Commissioner Bricker: I think Mr. Moriarty's testimony was that such a call originating in Ohio, crossing over the line into another state, and then back into Ohio, was classified as interstate property.

Mr. Burr: Interstate property to the extent of that use.

Commissioner Bricker: To the extent of that use, yes.

Q. You may proceed?

A. The detail methods which I have described do not take into account the incidental use of subscribers' stations, the Associated wires and cables and switchboard apparatus used in connecting subscribers to the toll board in connection with interstate calls. Under the station to station theory, such usage is interstate. That is the use of the exchange property ordinarily used for exchange purposes, but it does not include all of that property. We

therefore had to take from the exchange property which we knew and identify as exchange property a part of that never used for such interstate messages. That consisted of the local inter-office trunks used for exchange calls only and a proportion of the P. B. X. switchboards and P. B. X. stations representing their intercommunicating use. We also had to deduct that part of the exchange property which in previous separations we had considered as interstate. There was also a minor item deducted representing toll terminals which are stations connected directly with the toll board. Having deducted those items which were not involved in this common use, we pro-rated the balance of [fol. 5515] the exchange property between interstate and intrastate in accordance with the relation of the interstate traffic usage to the total traffic usage as determined from the traffic studies described by Mr. Moriarty.

Q. Do the methods which you have described provide for the allocation of every class of property to interstate use?

A. They do not give a separation for every class of property, but from the separations obtained by the methods I have described; the remaining classes of property were separated on a pro-rata basis. I believe I cited that underground conduits were separated in accordance with the separation of underground cables occupying such conduits. Land and buildings for central office equipment was separated in accordance with the separation of central office equipment. There were a few minor items of separation which I have not described because the amounts of money involved are, I think, very minor. A portion of the other central office equipment amount was pro-rated in accordance with operators' wages.

Q. Mr. Wilson, have you prepared an exhibit showing the results of your separation methods as applied to the book cost of the property of the Ohio Bell Company as of June 30 for each of the years 1924 to 1930, inclusive?

A. Yes, sir.

Q. In the exhibit does the book cost include the actual amount of construction work in progress, materials and supplies on hand as of each of those dates, and an amount representing working capital, and does your separation also include those items?

A. Yes, and those items have been pro-rated between interstate and intrastate in the same proportion as the total

[fol. 5516] plant in service has been pro-rated. I have given Mr. Brett, Chief Accountant, the results, together with the necessary detail for his work.

Q. Will you look at the paper which has been marked for identification Wilson Exhibit Number 1 and tell the commission whether that is the Exhibit to which you have just referred?

A. Yes, sir.

Q. Mr. Wilson, does your Exhibit Number 1 correctly show as between intrastate and interstate the bookcost of property comprising fixed capital, construction work in progress, material and supplies and an amount representing working capital as of June 30 of each of the years from 1924 to 1930, inclusive?

A. Yes, sir.

Mr. Burr: Wilson Exhibit Number 1 is offered in evidence.

Commissioner Geiger: May I ask, Mr. Burr, whether or not he has an exhibit that shows the per cents here?

The Witness: Those run from about three to five per cent. They are not shown on the Exhibit. They range from three per cent in the early years to five per cent at the end of the period.

Mr. Thompson: If the Commission would like to have that, it would be perfectly easy for us to supply the percentages opposite each one of those annual figures, wouldn't it, Mr. Wilson?

The Witness: Yes, sir.

Mr. Herbert: I would like to enter an objection to the introduction of the exhibit, because the incorporation of construction work in progress in each of those years is [fol. 5517] directly contrary to the indicated intention of the Commission in its tentative finding as to value. It throws us off.

Commissioner Geiger: Well, Mr. Herbert, if we have the per cents of one toward the other, would it make any difference, as to what was included to make up the total so long as the per cent is approximately correct? Because we may apply the per cent to whatever figure we may determine to be the correct figure.

Mr. Herbert: If your Honor please, if we have the totals broken up into amounts, of course, it would make no

difference, we could deduct the items, either counsel on either side or the Commission could elect to deduct.

Mr. Thompson: Mr. Herbert, we have them broken up in another exhibit, which we will put in. We thought it was unnecessary, but we have got it broken up and we will put it in another exhibit.

Commissioner Geiger: I think we might be able to use the per cents.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company, and is herewith submitted, marked Wilson Exhibit Number 1.

By Mr. Burr:

Q. Mr. Wilson, have you also prepared an exhibit containing the same information as that shown in your Exhibit Number 1, except that for the various years the totals have been divided between (1) fixed capital, (2) construction work in progress, (3) materials and supplies, [fol. 5518] (4) monthly average of telephone operating revenues?

A. Yes, sir.

Q. The exhibit may be marked for identification Wilson Exhibit Number 2, Sheets 1 and 2, and I will ask Mr. Wilson to state whether or not the exhibit which I hand him so marked is the one to which he refers?

A. Yes, sir.

Mr. Burr: We offer Wilson Exhibit Number 2, Sheets 1 and 2, in evidence.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Wilson Exhibit Number 2.

Q. Mr. Wilson, on the basis of use, do your exhibits Numbers 1 and 2 represent a proper separation, in your judgment, of the property of the Ohio Bell Company as between intrastate and interstate for the years 1924 to 1930, inclusive?

A. Yes, sir, that gives an accurate separation of the fixed capital, and other items are pro-rated, and do not affect the percentage applicable to fixed capital.

Q. Are you familiar in a general way, Mr. Wilson, with the telephone apparatus, equipment, materials and supplies sold during the past ten years by the Western Electric Company to the Bell Associated Companies generally?

A. Yes, sir.

Q. You have been over a large part of the properties of the Bell System Companies, have you not?

A. The Eastern and Midwestern, central.

Q. And you have made studies with respect to the other [fol. 5519] companies, have you not?

A. Yes, sir.

Q. In your judgment, do the purchases of the Ohio Bell Company from the Western Electric Company represent a fair cross-section of the telephone equipment, materials and supplies sold by that company to Bell System Companies generally?

A. Yes.

Mr. Burr: You may cross-examine.

Cross-examination.

By Mr. Herbert:

Q. I believe you said you are now assistant vice president, Mr. Wilson?

A. Yes, sir.

Q. Your duties in that capacity embrace what, mostly plant supervision?

A. That involves commercial activities, plant supervision, budgets, directory production.

Q. These values as appear in these two exhibits of yours were prepared under your supervision, is that correct?

A. Yes, sir.

Q. Now, have you available the detail of these values by account numbers for example?

A. The separation of the accounts between inter and intrastate?

Q. Yes, by account numbers?

A. I have that, yes. I haven't it here, but——

Mr. Burr: You will be glad to give it to Mr. Herbert?

The Witness: It can be obtained very readily and in a very short time.

Mr. Burr: And by the way, Mr. Herbert, not to interrupt

you, but before I forget it, may it be understood that Mr. [fol. 5520] Wilson will endorse on the exhibits 1 and 2, the proportions or percentages of the property shown in response to Mr. Commissioner Geiger's suggestion?

Mr. Herbert: I didn't understand Commissioner Geiger wanted the percentages of fixed capital, for example, or of construction work in progress, because that can easily be computed from the Exhibit itself. The percentage that interstate fixed capital bears to the total is apparent. It is just a mathematical calculation there.

Mr. Burr: Any of these figures involve mere mathematical calculation, and I thought it was understood from the Commissioner's question that he would like to have that shown on the exhibit merely for the purpose of convenience——

Mr. Herbert: I don't seek to obstruct, but I just want to know if that is what the Commission wants.

Commissioner Geiger: That is what we are asking, so that we might have that percentage worked out and we will apply it then to whatever figures we might select as the proper figures for valuation.

Mr. Herbert: I thought the Commission wanted per cents as applied to central office equipment, for example, to land and buildings or outside plant.

Commissioner Geiger: No, we don't want that.

Mr. Herbert: Don't want that. I have no objection to your endorsing on here the percentages as they appear here on the exhibit itself.

Mr. Burr: You will do that, will you, Mr. Wilson?

The Witness: Yes, sir.

By Mr. Herbert:

Q. You have testified in some detail here, Mr. Wilson, as [fol. 5521] to the methods you used with regard to the various classes of plant in separating the value for interstate and intrastate use. Can you summarize it for us in some more or less intelligible way to the average person by telling us whether or not you used, say, for example, one outside plant, you had some relation between mileage and time, is that correct?

A. Yes, sir.

Q. And as for central office plant, it was on a number of message basis substantially, is that correct?

A. That involved messages and time, but not mileage. One message would use approximately the same amount of the switchboard as any other.

Q. Now, did you have any formula for—what I am trying to get at is, you have testified to some methods you used. Have you got that laid out in detail somewhere available for the the commission engineers to examine, for example?

A. Yes, sir. I could go into a great deal more detail, would be glad to do so on any point. The detail can all be reproduced.

Mr. Herbert: I will ask permission to cross-examine at length after the record has been transcribed.

Commissioner Geiger: All right.

[fol. 5522] And also E. H. GUSTAFSON, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Will you please state your name and place of residence?

A. E. H. Gustafson, Cleveland, Ohio.

Q. By what company are you employed and in what capacity?

A. The Ohio Bell Telephone Company as general commercial manager, northeastern area.

Q. How many years have you been engaged in the telephone business?

A. About fourteen years.

Q. In what capacities? That is to say, will you please give a brief outline of your telephone experience during those years?

A. In July, 1917, I entered the employ of the American Telephone and Telegraph Company at New York City as a student engineer. I continued with the American Company about four and one-half years, with the exception of one year's service in the United States Marine Corps. In March, 1922, I was transferred to the Ohio Bell Telephone Company as general commercial engineer, and in this connection, I participated in the making of revenue estimates and in the design of schedules of exchange and toll rates for use by our company. In September, 1926, I was ap-

pointed division commercial superintendent for the then Northern Division of our Company, and in January, 1928, I was appointed to my present position as general commercial manager for the northeastern area.

Q. Or in other words, the head of the commercial depart-
[fol. 5523] ment of that area?

A. That is right.

Q. Does the preparation, study and design of proper rate schedules constitute one of the functions of your department, that is to say, the commercial department?

A. It does.

Q. Will you explain, if you know, just how the Ohio Bell Company went about the design and determination of the rate schedule for exchange service in this case?

A. In designing our rate schedules for exchange service, we obtained our exchange revenue requirements.

Q. You mean the total exchange revenue requirements?

A. The total exchange revenue requirements after securing from our engineers and accountants the appraisal of the exchange properties involved, together with the expenses of operation, including the carrying charges on those exchange properties.

In designing our schedules of exchange rates, we gave consideration to these values and to these expenses of operation, including the carrying charges, and from them we formulated rates which would meet the general requirements for each particular exchange.

Q. That is, you did that in order to meet the general exchange requirements, did you not?

A. That is right.

Q. Before the engineering and accounting departments could furnish you with this information, it was necessary, was it not, that a division of property as between toll and exchange be made?

A. That is correct. It should be added that these expenses and carrying charges involved in the furnishing of exchange service were determined on the basis of the board to board theory. Up to the point of connection with the
[fol. 5524] toll board, all plants and equipment and all service operations were considered to be exchange plant and equipment and exchange operations. This was true both at the terminating and at the originating end of a toll connection. We considered that as a part of his exchange service, the subscriber is entitled to connection with the toll

board. That privilege is a part of his exchange service and the costs incident to it are paid for by exchange rates. What is really meant there is up to the point of connection with the toll system. Our exchange rate schedules were designed, therefore, to include as exchange service the use of plant and equipment, and the service operations involved in connecting a subscriber with the toll board, or, if you please, with the toll system.

Q. In designing the schedule of toll rates, what consideration was given to the board to board method which you say was considered in the determination of exchange rates?

A. In preparing our schedules of rates for toll service, we took into consideration in a similar manner, the revenue requirements for furnishing toll service. This included operating expenses and carrying charges on plant and equipment involved in establishing connections from toll board to toll board.

Q. That is both inclusive?

A. That is right, and including, of course, the toll boards themselves.

Q. Right.

A. Our toll rate schedules were designed, therefore, to include as toll service the use of plant and equipment, including the respective toll boards and the service operations involved in connecting one toll board with another toll board.

Q. That sounds fairly simple, but is the designing of the [fol. 5525] toll rate schedule as simple as all that?

A. No; it is on the contrary rather complicated and intricate, but the point I wanted to bring out was that our toll rates, just as our exchange rates, are based on the board to board theory of separating the plant and the expenses; that is, the toll rates provide for the use of plant and equipment, including the toll boards and the service operations involved in connecting one toll board with another toll board.

Commissioner Geiger: That plant is still followed for your valuation of your toll lines that are not interstate, is it not?

The Witness: That plan is still followed, Mr. Commissioner, without regard to whether you are dealing with intrastate or interstate toll values.

Q. Then in making these toll rates, you provided for

nothing beyond the toll board, no service beyond the toll board, did you?

A. That is correct.

Commissioner Geiger: Mr. Burr, that is a little confusing to me unless you know which way you are going when you say beyond. You mean toward the exchange?

Mr. Burr: From the board to the subscriber. And of course, I am referring to compensation, to the toll rate schedules.

By Mr. Burr:

Q. On the board to board basis, is there any property which is considered to be exchange property in the design of exchange rates and at the same time is considered to be toll property in the design of toll rates?

A. Absolutely not. There would be no duplication or double use of that sort.

Q. What do you understand by the station to station [fol. 5526] method of separation as between toll and exchange?

A. My understanding is this, that in addition to the separation on the board to board basis, which I have previously discussed, the station to station separation will operate to increase the property used for or in connection with toll service and decrease the property used for local exchange service in like amount, and this amount represents the use of that property for connecting the subscriber with the toll board in the rendering of toll message service.

Mr. Burr: You may cross-examine.

Cross-examination.

By Mr. Herbert:

Q. I didn't get how long you had been general commercial manager for that district up there?

A. Since January, 1928.

Q. Have you had anything directly to do, Mr. Gustafson, with the preparation or design, I believe is the word, of the schedules now in effect being collected by the telephone company?

A. Yes, sir.

Q. That was prior in 1928?

A. Yes. In the period from March, 1922, until September, 1926, which is the period of the most of the consolidations and most of the effective dates of the present exchange and toll rate schedules that are under review in this particular case. I was the general commercial engineer for our company at that time, which included the two areas into which we are divided at the present time, and in that capacity it was my job to assist in the preparation, design and formulation of these various rate schedules. In fact, [fol. 5527] the commercial department under the general commercial engineer is the starting point of those particular rate schedules.

Q. Now then, that is particularly with reference to the local exchange service schedules, is that correct?

A. Well, it applies to both the local exchange service schedules and the toll schedules.

Q. In the design of intrastate toll schedules, did you participate in the making up of the present toll rates intrastate in Ohio?

A. We did. We reviewed the schedules that were submitted as typical schedules——

Q. Submitted by whom?

A. By the American Telephone & Telegraph Company. But our toll rates are not the same as the system-wide schedules, Mr. Herbert.

Q. On what are they designed, mileage?

A. Well, toll rate schedules are based first on the distance factor; secondly, on the type of call, whether it is to be a call to a particular person or whether reaching a certain telephone will suffice. They have, furthermore, measurements, the rate is determined by the length of conversation and that charge is applied in what we term an initial period with certain overtime charges for overtime periods. We also distinguish between the time of day on the station to station call. Those are the principal characteristics of our toll rate schedules.

Q. And you say the toll rate schedules now in effect in intrastate toll service in Ohio were submitted to your department, or the department of which you were engineer by the A. T. & T. Company?

A. They were suggested to us.

Q. And to what extent, they were not originally prepared by your department, is that correct?

A. They were not originally prepared, but they were [fol. 5528] tested against the toll revenue requirements for our company and they were found to satisfy substantially our requirements in this particular case.

Q. Then did I understand you correctly, did you say that your toll rates intrastate differ from the system rates?

A. At the present time, yes, sir.

Q. Upward or downward?

A. These differences are rather—well, I was going to say minor——

Q. You can't generalize them?

A. No, they are particular differences, Mr. Herbert. I could illustrate that by calling attention to the fact that our intrastate rates include higher basic charges, that is, charges for initial period service for appointment and messenger service. In the interstate schedule those charges are the same as apply to person to person message service.

Q. Will you re-state that, please? I didn't quite get it.

A. The point is this, that in our intrastate schedule, we make higher charges, that is, for the same distance and under the same conditions, for appointment and messenger service than applies for the same distance under the interstate schedule for those services. In the interestate schedule that is figured on the person to person rate, and in our schedules it is figured at a rate that is probably about 20 per cent. higher than the person to person rate.

Q. By appointment and messenger service, would you explain what you mean?

A. An appointment call is one in accordance with which we arrange to have the called party available at a particular time sometime in the future. We make that arrangement in advance and he is there at that appointed time and the [fol. 5529] conversation can then occur.

Q. I don't want to go too far afield, but doesn't that appointment always follow when the original person to person call is not completed at once—or rather, isn't an effort made to complete it by appointment?

A. An effort—we will continue calling on those and sometimes it is equivalent to an appointment call, but we don't undertake at the time of the filing of the original call to designate any particular time for the completion of that appointment as we do under the appointment message service.

Q. And your appointment service, you treat as distinct from the example that I just cited?

A. That is right, that is, in the intrastate schedule. In the interstate schedule the same basic rate applies to the appointment service as applies to the usual person to person service.

Q. You use substantially the same basis in interstate toll service rates and in intrastate for straight person to person messages?

A. Substantially, because the distances within the state are generally within the same mileage steps as apply to the interstate, although it is true that for the greater distances, the interstate schedule would be less than an extension of the intrastate schedule.

Q. Well, you have referred to this difference as an example in your appointment traffic service, toll service. Does that constitute any appreciable proportion of your intrastate toll service?

A. The appointment service as such does not. That merely illustrates the point, Mr. Herbert, that we do not necessarily blindly follow the recommendations of the American Company.

[fol. 5530] Q. Do you have anything to do with the allocation of revenue from an interstate call? By "you" I refer to your department?

A. The allocation of revenue, I believe that would be covered by the next witness, Mr. Herbert.

Q. I am not asking you to testify to something you don't know about, but you have testified to participating in the design of these rates schedules, both exchange and toll?

A. That is right.

Q. Now, do you allocate the toll revenue on an intrastate toll call as between the Lakewood Exchange in Cleveland, for example, and the Franklin Exchange down here, and a line in between, do you allocate that on your own books as between the departments?

A. We have no separation on our books as between revenues obtained on interstate business and revenue obtained on intrastate business.

Q. Now then, on a call between Columbus and Indianapolis, there is an allocation of that total charge to the person calling, is there not? In other words, if I call Indianapolis from Columbus, I pay the entire charge to the Ohio Bell

Telephone Company and that may be divided between the Ohio Bell Company, the A. T. & T. and the Indiana Telephone Company, is that correct?

A. That is correct.

Q. Now, does your department have anything to do with the determination of those proportionate amounts?

A. No, except indirectly. We obtain, of course, in the preparation and the study of our rate schedules, those various factors so that they can be taken into account and incorporated into our rate work, but the commercial department as such does not have anything to do with the technical [fol. 5531] work and the production work involved in that sort of an actual separation.

Q. That is the point I am getting at. Your department has nothing whatever to say about what proportion of that total charge will be received by the Ohio Bell Telephone Company is that correct?

A. Well, that is really a management question, Mr. Herbert, and all departments would be consulted on a question of that sort.

Q. No, but you have testified, Mr. Gustafson, to being general commercial manager for the northwestern district and to having charge of the design of these toll and exchange service schedules. I am merely asking you if you know whether or not your department has anything to do with the determination of what proportion of an interstate toll call is received by the Ohio Bell Telephone Company, received and retained, or is that not all fixed by the A. T. & T. Company?

A. That is a matter that is settled by the respective managements of the two companies.

Q. Does that separation vary from year to year or is it a percentage basis or how is it fixed?

A. That is covered by contract.

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[fol. 5532] Commissioner Geiger: Just a moment, until I [fol. 5533] get this straight in my mind, and I will try to be as brief as possible. In Wilson Exhibit Number 1 and 2 is shown a deduction from the entire value of the property for that property which is used in interstate service only and it is estimated in a different method than that used by you heretofore in separating toll service from local exchange service. Now, as I understand, to the extent that

these interstate services are taken back to the subscriber, to what extent the subscriber is released of a value of the property? I don't know that I am making myself quite clear, but you have adopted as interstate, a different method due to the decision announced by Judge Hughes than that which you had heretofore pursued, is that correct?

The Witness: With reference to the toll use of exchange property, that is, the use of subscribers' station apparatus, lines from the subscribers' stations to the central office and the proportionate use of local switchboards, we still contend that that is exchange use, but it happens to be in connection with toll service, and it would not be classified, Mr. Commissioner, as toll property. It still continues to be classified as exchange property for toll use.

Commissioner Geiger: Except where it is engaged in interstate service?

The Witness: It would be exchange regardless of whether it was used for interstate or intrastate.

Commissioner Geiger: All right.

Mr. Burr: Exchange interstate?

The Witness: Exchange property used in connection with an interstate toll message.

* * * * * * *

[fol. 5534] And also F. B. Brett, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Will you please state your name and place of residence?

A. F. B. Brett, Cleveland, Ohio.

Q. By what company are you employed and in what capacity?

A. By the Ohio Bell Telephone Company as chief accountant.

Q. How long have you been engaged in the telephone business?

A. 31 years, approximately.

Q. Will you please outline briefly your telephone activities during those years?

A. Eleven years in Detroit with the Michigan Telephone Company as Junior Clerk, clerk, general bookkeeper, and disbursements supervisor. One and one-half years in Chi-

cago with a group of companies as disbursements supervisor, the companies being the Chicago Telephone Company, the Central Union Telephone Company, the Wisconsin Telephone Company, the Michigan Telephone Company, and the Cleveland Telephone Company. One and one-half years in Indianapolis as revenue supervisor for the Central Union Telephone Company, Indiana division. [fol. 5535] Eight years as division auditor of receipts for the Cleveland Telephone Company and former Ohio Bell Telephone Company in Cleveland. Seven and one-half years as auditor of disbursements of the present Ohio Bell Telephone Company, and approximately a year and a half in my present position.

Q. Were all of the companies which you have mentioned Bell System Companies?

A. They were.

Q. And as chief accountant of the Ohio Bell Telephone Company have you made a separation of the revenues, expenses and deductions of the company as between interstate and intrastate for the years 1924 to 1930, inclusive?

A. I have.

Q. In your apportionment of these items, what separation as to usage was considered?

A. The separation of the interstate and intrastate usage was made according to the station to station basis. This was in conformity with the separation of the book value of the property as made by Mr. Wilson, assistant Vice President.

Q. Explain, if you please, how you arrived at the separation of the telephone operating revenues?

A. In general, a direct allocation was made of the telephone operating revenues briefly as follows: Exchange service revenues and miscellaneous operating revenues were assigned to intrastate, except that a portion of these revenues was assigned to interstate to cover revenues derived from subscribers located in Ohio, and served from a central office located in an adjacent state and subscribers located in an adjacent state and served from a central office in Ohio.

Q. Will you give an example of an exchange serving subscribers without the state? By that, of course, I mean in [fol. 5536] Ohio exchange serving subscribers without the State?

A. East Liverpool, Ohio, furnishes service to subscribers' stations without the state.

Q. And will you also give an example of an exchange without the state serving subscribers of the Ohio Bell Company in Ohio?

A. Sharon, Pennsylvania, serves subscribers' stations in Ohio.

Q. Proceed with your apportionment?

A. Other apportionment was made in the interstate revenues, to cover interstate exchange service given to subscribers located in Ohio to subscribers' stations located in an adjacent state, such as the service between our Bridgeport, Ohio, exchange, and the Wheeling, West Virginia, exchange. Revenues were also apportioned to interstate for the use of exchange plant in connection with toll interstate messages. Allocation was also made to interstate for miscellaneous revenues derived from service performed and plant used in connection with interstate business.

Q. Yes. Now, tell the Commission how the toll service revenues were determined?

A. Toll service revenues were allocated on the basis of the source of revenue; that is, revenues from toll service wholly within the State were assigned to intrastate, and revenues from toll service extending outside of the State were assigned to interstate.

Q. Right. How were your net non-operating revenues separated?

A. Net non-operating revenues, principally revenues from space in company-operated buildings rented to others was assigned to intrastate, except that the revenues from space leased to the American Telephone & Telegraph Company were assigned to interstate.

[fol. 5537] Q. Yes. You are referring to the net revenues?

A. Net revenues, correct.

By Commissioner Geiger:

Q. Now, let me just ask a question or two about that. As I understand, your answer is to the effect that if a building in Ohio owned by the Ohio Bell Telephone Company is leased in part to the American Bell Telephone Company and they pay a rent, that rent is assigned to interstate operation?

A. Correct.

Q. Well, now, do you likewise deduct the proper propor-

tion from the value of that building when you make up your inventory?

A. You mean in this particular separation that Mr. Wilson gave?

Q. Yes?

A. I understand that was done.

Q. That is, if a building is worth a hundred thousand dollars, we will say, and twenty per cent of it is assigned to the occupan-y of the American Bell Company, the rent derived from the American Bell Telephone Company goes into interstate service consequently, we would infer that the entire hundred thousand dollars of that building ought not to be charged or put in the inventory as property used and useful in the intrastate service, only 80 per cent of it should be used?

A. That is all that went in. The 20 per cent of the value was assigned to interstate.

Commissioner Geiger: All right. If you have got that assignment and allocation of the property——

Mr. Burr: I will ask Mr. Wilson to answer from where he sits whether or not that is correct.

Mr. Wilson: Yes.

We apportioned the building value in accordance with [fol. 5538] occupancy and the value of space rented by the A. T. & T. Company was assigned to interstate value.

Mr. Herbert: Let me ask a question to keep this record coherent. Didn't you testify, Mr. Wilson, that you used the same percentage for land and buildings in separating between interstate and intrastate use as you did for central office equipment?

Mr. Wilson: I said the buildings' use for central office space were pro-rated in that way. And I made one specific reference in describing the elements of interstate usage to the use of floor space, leased to the A. T. & T. Company.

Mr. Herbert: You state now that you made a specific allocation on a percentage basis of land or buildings where space was rented to A. T. & T. Company based on the interstate revenue derived therefrom?

Mr. Wilson: No, sir, if they occupied ten per cent of a building we classified the ten per cent of the value of that building to interstate, and we classified ten per cent of the value of the land on which that building rested to interstate, but that was only part of the entire treatment of the build-

ing. Part of that was used for central office and we would split that according to the central office separation.

Commissioner Geiger: Then it amounted practically to the same thing, would it not, had you charged the entire valuation of the building to the Ohio Bell Telephone Company and credited them with the income as the revenues produced from the piece of property?

Mr. Wilson: Except that we made more return on the space rented to the A. T. & T. Company than we do the rest [fol. 5539] of the building.

Commissioner Geiger: You think it would be fairer to the local Bell Telephone Company to do it as you have done rather than do it the other way?

Mr. Wilson: Yes, sir. But we considered that their business was interstate and that that usage was really an interstate usage.

Mr. Burr: So much for the apportionment of the company's revenues.

By Mr. Burr:

Q. How were the company's expenses and deductions treated in your separation?

A. Telephone operating expenses and deductions were separated between interstate and intrastate as follows: Expenses related to plant, such as total maintenance, and amortization of landed capital were separated on the basis of the separation of the plant values to which they were related as furnished by Mr. Wilson. For example, repairs to exchange pole lines were separated on the basis of the separation of the value of the exchange pole lines, and so on.

Q. How did you treat the traffic and commercial expenses in your separation?

A. Traffic expenses were separated on the basis of traffic work units as furnished by Mr. Moriarty. Commercial expenses were separated on the basis of an analysis for each commercial account of the work performed for the two kinds of service. In some cases, analyses were made of the activities of the commercial forces engaged in the work, and in some cases, it was considered that the separation of the company's revenues between the two kinds of service was the best measure. In general, therefore, we used the com- [fol. 5540] bined basis of an analysis of the work performed and an analysis of the separation of the revenues designed according to our best judgment to produce the closest ap-

proximation to accuracy in the separation of the total commercial expenses.

Q. All right, now, how were the general and miscellaneous expenses and uncollectible operating revenues separated as between interstate and intrastate?

A. General and miscellaneous expenses were separated principally on the arithmetical mean of (a) the percentage of current maintenance, traffic and commercial expenses assigned to interstate, and (b) the percentage of the total plant value assigned to interstate. I might say this is a recognized method that is used by large telephone companies generally.

Q. Yes. Now, what about your uncollectible operating revenues, how were they separated?

A. Uncollectible operating revenues were separated by interstate and intrastate on the basis of the separation of the total telephone operating revenues.

Commissioner Geiger: May I ask there whether or not it is more expensive to operate the toll line than it is the local line, is the service that you are required to employ and pay for more expensive? Is it more expensive to operate the toll line, whether it be interstate or intrastate, than it is the local service?

The Witness: Well, I don't know that I could give you an answer on that.

Commissioner Geiger: All right.

Q. The next item that I would like to have you discuss, if you please, is the separation of taxes and rents; how did [fol. 5541] you do that?

A. Taxes assignable to operations were separated on the basis of the respective property values, the revenues and net income intrastate and interstate on which they were assessed. Rent deductions were separated on the basis of the use of the property leased intrastate and interstate.

Q. Did you make the same detailed assignments and apportionments in all of the years from 1924 to 1930, inclusive?

A. Yes. However, for accounts requiring detail studies we made such studies for the years 1925 and 1928 and applied the factors so derived to the corresponding accounts for the other nearby years, with suitable weighting to care for the somewhat different rates of growth in intrastate and

interstate respectively. This obviated the need for repeating these special studies for the other years, without sacrificing the necessary accuracy.

Q. Now, Mr. Brett, having made these apportionment for each year, were you able to arrive at the net income for each year applicable to the interstate and intrastate portions of the company's property?

A. Yes, sir. My Exhibit Number 1 indicates the many items I have discussed in my testimony, total property, book cost, as of June 30, revenues, expenses and deductions and net income, intrastate, interstate and the entire company, and finally a rate of return intrastate, interstate, and entire company for each of the years 1924 to 1930, inclusive.

Q. Will you look at the compilation which has been marked for identification Brett Exhibit Number 1, Sheets 1 to 7 inclusive, and tell the Commission whether or not that is the statement to which you have just referred?

A. It is.

[fol. 5542] Q. Does this exhibit and the other separation exhibits to which you will testify correctly state in your judgment the property, net income and rate of return for the several years, interstate and intrastate and for the entire company?

A. I would like to have that question, please.

(Question read.)

A. As shown, they do.

Q. And that separation, if I understand you, is based upon the book cost of the property?

A. That is true.

Mr. Burr: Brett Exhibit Number 1, Sheets 1 to 7 inclusive, is offered in evidence.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 1.

Q. Please look at the statement or compilation consisting of six sheets and marked Brett Exhibit Number 2, Sheets Numbers 1 to 6 inclusive, and tell the Commission whether or not that shows the income statement, supported by the telephone operating revenues and telephone operating expenses in detail, as reflected on the books of the Ohio Bell

Company for each of the two years ending December 31, 1924, and 1930, respectively?

A. It does.

Q. Do you happen to know, Mr. Brett, whether or not the corresponding data for the corresponding years, 1925 to '29, inclusive, have previously been presented and are on file in this case as Cooper Exhibit A-2, Spring Exhibits [fol. 5543] Numbers 1, 2 and 3, and Eide Exhibit Number 1?

A. I do. They are.

Mr. Burr: We offer Brett Exhibit Number 2 in evidence.

Commissioner Bricker: It may be admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 2.

Q. Please look at the next exhibit, consisting of two sheets and marked for identification Brett Exhibit Number 3, Sheets 1 and 2, and tell the Commission whether or not that Exhibit shows the gross additions to fixed capital and construction work in progress for each of the two years ending December 31, 1924, and December 31, 1930, as reflected on the books of the company?

A. It does.

Q. Have corresponding data for the intervening years, 1925 to 1929, inclusive, been previously presented and are they on file in this case as a part of Eide Exhibit Number 1?

A. They are.

Mr. Burr: We offer Brett Exhibit Number 3, Sheets 1 and 2, in evidence.

Commissioner Bricker: The record may show it is admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 3.

[fol. 5544] Q. Calling your attention next to the Exhibit marked Brett Exhibit Number 4, sheets Numbers 1 and 2, will you please tell the Commission whether or not that Exhibit shows the fixed capital withdrawn or retired for each of the two years ending December 31, 1924, and De-

cember 31, 1930, as reflected on the books of the Ohio Bell Telephone Company?

A. It does.

Q. Do you know whether or not corresponding data for the intervening years, 1925, to 1929, inclusive, have previously been presented and are on file as a part of Eide Exhibit Number 1 in this case?

A. I do. Such exhibits are on file.

Mr. Burr: Brett Exhibit Number 4 is offered in evidence.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted marked Brett Exhibit Number 4.

Q. I call your attention next to the exhibit consisting of seven sheets marked Brett Exhibit Number 5, sheets 1 to 7, inclusive, and will ask you to state whether or not that exhibit correctly shows the net additions to fixed capital and construction work in progress as of December 31, for each of the years 1924 to 1930, inclusive, as reflected on the books of the Ohio Bell Telephone Company?

A. This exhibit does.

Mr. Burr: Brett Exhibit Number 5 is offered in evidence.

Commissioner Bricker: It may be admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio [fol. 5545] Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 5.

Q. The next exhibit, consisting of one sheet, marked Brett Exhibit Number 6, Sheet Number 1, shows what, if you please?

A. Shows reserve for accrued depreciation and amortization of intangible capital and its relation to total mixed capital for the years 1924 to 1930, as of June 30 of each of these years.

Mr. Burr: Brett Exhibit Number 6 is offered in evidence.

Commissioner Bricker: It may be admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 6.

Q. Have you prepared an exhibit which has been marked for identification Brett Exhibit Number 7, Sheet Number 1, showing the property, net income and rate of return of the Ohio Bell Telephone Company for the three months ending March 31, 1931, and if so, is it based upon the average book cost of the total property for that period?

A. I have, and it is so based.

Mr. Burr: Brett Exhibit Number 7 is offered in evidence.

Commissioner Bricker: It may be admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio [fol. 5546] Bell Telephone Company and is herewith submitted, marked Brett Exhibit Number 7.

Q. Mr. Brett, have all of your exhibits Numbers 1 to 7, inclusive, been prepared by you and under your direction?

A. They have.

Q. Are they correct to the best of your knowledge, and belief?

A. They are.

Mr. Burr: You may cross-examine.

Mr. Herbert: I ask permission to cross-examine at a later date, if the Commission please.

And thereupon an adjournment was taken until 9:30 o'clock A. M. of the following day, (April 16, 1931).

[fol. 5547] Thursday Morning Session

April 16, 1931.

And thereupon the further hearing of this cause was resumed pursuant to adjournment.

Present:

Same parties present by their respective counsel as at previous session.

Harold H. Burton, Director of Law, Cleveland, Ohio, appearing on behalf of the City of Cleveland, Ohio.

And also RICHARD H. GREGORY, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Thompson:

Q. You may state you name and place of residence?

A. Richard H. Gregory, Montclair, New Jersey.

Q. What is your business, Mr. Gregory?

A. I am comptroller of the Western Electric Company.

Q. How long have you been comptroller of the Western Electric Company?

A. 22½ years.

Q. Before that time were you employed by the Western Electric Company in any capacity, and if so, in what capacity?

A. I came into the employ of the Western Electric Com- [fol. 5548] pany the first of August, 1898, shortly after graduation from College. I became Assistant Chief Clerk in the New York Office in December, 1898. I was transferred to Chicago in 1900 and was in the Secretary's Department, the Secretary at that time having charge of the accounts. In 1900 I was transferred back to New York, still in the Secretary's Department, and was in New York until 1905, when I was made Assistant Secretary of the Company. I then went back to Chicago where the headquarters of the Company were at that time and remained there until 1908 when I was appointed comptroller and moved to New York.

Q. Mr. Gregory, is the Western Electric Company to which you have referred, the same company, the greater portion of whose stock is owned by the American Telephone & Telegraph Company?

A. Yes, sir.

Q. And does the Western Electric Company have now and has it had for some time past, supply contracts with the Ohio Bell Telephone Company and the other Associated Bell Companies?

A. Yes, sir.

Q. I wish you would give to the Commission very briefly, Mr. Gregory, what your duties are as comptroller of the Western Electric Company, with particular reference to your charge and supervision of the books of account of the company?

A. As comptroller of the company I am responsible for the presentation and make-up of the balance sheets and the profit statements and the books of accounts are under my control and supervision.

Q. Are the Bell Associated Companies the only customers of the Western Electric Company?

A. No, they are not, but the Bell Companies buy the largest part of the product of the Western Electric Company.

[fol. 5549] Q. Did you have prepared under your supervision an instrument which I have had identified as Gregory Exhibit Number 1, showing the business done by the Western Electric Company with the Bell Associated Companies for the years 1916 to 1930, both inclusive, the net profits earned on that business, the per cent of net profits to sales and the return in a percentage figure on the investment of the Western Electric Company devoted to that business?

A. Yes, sir.

Q. Have you included in the figures on Exhibit Number 1 any business done or profits or expenses relating to any business done by the Western Electric during the years referred to with companies other than the Bell Associated Companies?

A. No, sir.

Q. As I understand it, all business of that character and all expenses incidental to that business and all earnings on that business have been excluded in the preparation of Gregory Exhibit Number 1?

A. That is right.

Q. In the column headed "sales" on this Exhibit Number 1, what is included in the figures, Mr. Gregory?

A. Column headed "Sales" shows the sales by years, 1916 to 1930, to all of the companies in the Bell System combined.

Q. Now, I note that the dollars on this Exhibit are shown in thousands?

A. Thousands, yes, sir.

Q. And for instance, if I should want to arrive at the sales in dollars for 1916, I should read 73,915,000 dollars, is that correct?

A. That is correct.

Q. How did you arrive at the figures included under "Total cost of sales" appearing in this Exhibit?

A. The cost of sales represents the cost of manufactures of material and equipment and cost of supplies, which is [fol. 5550] the same to both Bell and to non-Bell customers, and so they are direct costs against either class of business. The costs of installation are also direct costs and require

no apportionment or allocation. The other costs are allocated on the basis of time studies where time studies are available and where it is proper to ascertain such studies——

Q. May I interrupt you just a minute, Mr. Gregory. If I understand correctly, a certain part of the costs of sales are divided on a time factor——

A. Time factor basis.

Q. Where there is a certain portion of the time applicable to the Bell Business and a certain portion of the time of a given officer or employee applicable to non-Bell business?

A. Where it is necessary to apportion between the Bell and the non-Bell business.

Q. And the time element——

A. And the time factor is an element. We divided on that basis. All other expenses which are not subject to the time factor basis of division are allocated between the Bell business and non-Bell business on the basis of the cost of manufactures of material and equipment and cost of supplies to the Bell system companies and to the non-Bell customers for those same materials and supplies.

Q. In your opinion, Mr. Gregory, do the figures appearing in this column which we have been discussing reflect the direct and allocated cost of sales of the Western Electric Company for the several years referred to on the business done with Bell Associated Companies on a proper and just accounting basis?

A. Yes, sir.

Q. In your opinion do these direct and apportioned costs [fol. 5551] justly and accurately reflect the cost of the Western Electric Company of these articles sold to the Bell Associated Companies?

A. Yes, sir.

Q. What are the figures appearing in the column "Net profits"?

A. The figures appearing in the column "Net profits" represent the difference between the sales figure shown in the second column and the total cost of sales shown in the third column year by year.

Q. Do the figures appearing in the column entitled "Per cent net profit to sales" show the per cent of profits to sales made by the Western Electric Company in each of the years 1916 to '30 separately on the business done by it with the Bell Associated Companies?

A. They do.

Q. In the last column of this exhibit there appears the per cent return on investment devoted to the Bell business. How did you arrive at these per cent figures?

A. These per cent figures are reached by taking the relation of the net profits shown here in the fourth column to the investment of the company devoted to Bell business.

Q. Now, what did you include in the investment devoted to the Bell business in arriving at these figures?

A. In investment, I included plant, merchandise, receivables and cash, less accounts payable, allocated to the Bell business.

Mr. Burr: The company now offers in evidence Gregory Exhibit Number 1. Is it your desire, Judge Geiger, that I should pause here so that you may ask a question?

By Commissioner Geiger:

Q. I have one or two questions I would like to ask about. Mr. Gregory, we chance to be particularly interested in the year 1925, being the date certain in fixing the value of the [fol. 5552] property, and it appears from your per cent return on investment that 1925 is one of the more profitable years?

A. Yes, sir.

Q. You having earned 10 per cent on that year and 10.1 in 1927 and 10.7 in 1928. Those larger percentages bring your average per cent for the total 15 year period up to the average of 7 per cent. Now, was there any particular thing that occurred during the year 1925 that made it a profitable year above the average run year?

A. The situation with reference to any one year is not a good guide as to the return of a manufacturing business because of four or five factors which I will mention. The first factor is this, that our wages to our employees are increasing, that is, we have increased them during the last period of ten years from 1920 to 1930.

Q. I don't believe I care quite for that detail. The question that I have in mind that I think I addressed to you was whether or not you know of any particular circumstance that made 1925 an outstanding, profitable year?

A. Well, in that particular year, there was greater activity in our shops. The result of greater activity in the shops where we work overtime necessarily tends to reduce

our costs, and we do not know until we have taken inventories in a manufacturing company exactly where we stand, because there are necessarily inventory adjustments on account of conditions of stock and so forth.

Q. Well, I assume that the inventory of the company's property based upon the 1925 prices insofar as it related to property bought from the Western Electric Company would take the prices that were prevalent that year. Now, I think the prices were heavier in 1925 to the Bell Associated Com-
[fol. 5553] panies, did you charge them a higher price?

A. No, there are no higher prices charged. The tendency has been to reduce prices during this period. This reflects, this increased profit reflects a greater activity and further reductions in raw materials.

Mr. Burr: I am going to go, Your Honor, a little bit more in detail.

By Commissioner Geiger:

Q. You would then say that the fact that 1925 showed a greater profit, both on per cent of net profits to sales and per cent of return on investment, does not reflect the fact that in 1925, you were charging the Bell Companies and Associated Companies a higher price for property?

A. No, sir.

Q. Now, one other question and I will cease for the present. Have you worked out and can you tell us what the per cent return on the investment was, taking into consideration not only your sales to your Associated Bell Companies, but your sales to independent companies?

A. You mean all non-Bell Companies?

Q. All companies—well, what was your per cent——

A. You mean total business, the total customers of the company?

Q. If you have them and are going to develop it——

Mr. Burr: Yes, I can bring that out, Judge Geiger.

Commissioner Geiger: What I wanted to get was whether or not there was any difference between the Bell sales and the non-Bell sales.

Mr. Burr: I am going to develop that in my very next question, Your Honor.

Commissioner Geiger: All right. I was just one step ahead of you.

[fol. 5554] Mr. Herbert: I would like the record to show an additional exception to this exhibit.

Commissioner Geiger: Yes. I think that would be overruled and exceptions noted and the exhibit may be admitted.

And thereupon the paper writing last above referred to was offered, introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company, and is herewith submitted, marked Gregory Exhibit Number 1.

Q. What is the fact, Mr. Gregory, as to whether during the period of time inquired about, the profits made by the Western Electric Company on its non-Bell business were higher or lower than the profits made by it on its business with the Bell Associated Companies?

A. They were higher.

Q. How much higher?

A. The profits on the business with the Bell customers, as shown in this exhibit Number 1, were seven per cent on the investment. During this same period, the profits on business with other customers was 10.5.

Q. Now, in this Exhibit Number 1, Judge Geiger has already called your attention to the fact that there is some variation in profits, in the per cent of profits to sales and on return on investment throughout these several years.

A. Yes, sir.

Q. I would like to have you explain to the Commission in detail why in a manufacturing business of this character such variations do occur and to give a general statement of the causes of the variation?

A. In the manufacturing business it is subject to wide fluctuations due to four or five different major factors.

[fol. 5555] One of them is the activity in the manufacturing which I discussed a moment ago. As that activity increases and we can work our machinery instead of eight hours a day, twenty-four hours a day and when the overhead of the company does not increase proportionately to the volume of business, the trend of costs is down under such circumstances.

On the other hand, it is a policy of the company to make reductions in prices to the customers, Bell customers, as we can do so commensurate with earning a fair return on the investment.

The third factor is the earnings of our employees. We

want to make sure, we have to make sure, we pay fair wages to our productive help.

The fourth factor is the trend of commodity prices which enter into our product. If that goes up, why, it increases our costs, and if it goes down, it decreases our costs.

And the fifth factor is the extent to which we can put in cost reductions, which we are working on constantly in the manufacturing department and in our office methods and in the accounting department.

Q. Now, Mr. Gregory, you have referred to one factor that I wanted to call your attention to a little more particularly and that is the decline in material prices?

A. Yes, sir.

Q. Is your inventory taken each year as of December 31?

A. Yes, sir.

Q. Of course, that has something to do with the profits which have been made during the preceding year?

A. Yes, sir.

Q. How is that inventory taken, whether at cost or market?

A. It is taken at cost or market, whichever is the lower.

[fol. 5556] Q. Now, in your opinion, from these varying factors, can you obtain a fair reflection of the company's business by looking at the results of a single year, or must attention be given to the over-all results for a fair period of years?

A. In my opinion, the only fair way to judge a manufacturing business such as the Western Electric Company is to consider the results over a period of years.

Q. Do you have any figures for the year 1930 showing how each dollar of sales by the Western Electric to the Bell Associated Companies is divided as between labor costs, material costs, taxes, profits and so forth?

A. Yes, sir.

Q. I wish you would give that division?

A. In 1930, our labor costs represented 42.2 cents of every dollar billed to the Bell Companies. The material costs represented 53.8 cents. Taxes represented .6 of a cent. Net profits, 3.4 cents.

Commissioner Bricker: Just one question there, if you please.

Mr. Thompson: Certainly.

Commissioner Bricker: Have you noticed in recent years, say in this last year, any increase in labor costs or material costs?

The Witness: You are talking now as a whole, Mr. Commissioner?

Commissioner Bricker: Yes.

The Witness: In 1931, the present condition, as far as materials are concerned, there has been a marked decrease in materials. As far as labor is concerned, the ef- [fol. 5557] ficiency of labor has gone up under the fear of losing the job, everybody feels that they want to keep their jobs and therefore it has the tendency to increase their efficiency. Yet, that is what always happens in times of depression.

By Mr. Burr:

Q. How about the prices paid to productive labor per hour, any change in that in 1931?

A. No, no change in the hourly prices to productive employees.

Commissioner Bricker: Is there any factor that you would know of then that would cause an increase at this time in the price of the product of the Western Electric which it is selling either to the subsidiary Bell Companies or to independent companies?

The Witness: That, of course, depends upon one of these other factors that I have mentioned previously. If the activity of the shops is very greatly decreased, it will have the tendency to increase costs in spite of the fact that your labor may be more efficient and your materials may cost you less, and that brings out clearly the point that I wish to make, that it is the weighting of these various factors in the varying years, sometimes one has more weight than the other has, and that it makes it extremely unwise, it seems to me, to draw any conclusions from any particular year. But if you take a long period of time those things will iron themselves out.

Commissioner Bricker: Do you know whether or not the present depression in the telephone industry, particularly in the building of new lines and extensions, maintenance, would be such as to cause that factor to result in higher prices?

The Witness: Well, whether it would cause higher prices or not, would be a question, of course, of policy for the [fol. 5558] company to decide. It certainly means that the profits of the Western Electric Company are smaller. We might conceivably get to the point where there would be no other way out except to increase prices or else dig into our surplus.

By Mr. Thompson:

Q. For instance, along that line, if I may supplement the questions of Mr. Commissioner Bricker, for 1930, the per cent of net profits to sales was 3.4 per cent as shown by this exhibit?

A. That is right.

Q. And the per cent return on investment was 4.3 per cent.

A. Right.

Q. Or about half of what the return on investment was for the preceding year?

A. That is right. That indicates, of course, that you can not have many years like 1930 with only 4.3 earned on investment without something happening one way or the other to improve the situation. Some of these factors, all four or five of these factors may change. It may not mean an increase in prices, but it may mean that we will have to put further cuts in our costs by advancing these cost reduction studies which we have, which have amounted to millions of dollars annually.

By Commissioner Bricker:

Q. Has there been any increase in the Western Electric prices to its subsidiary companies in the past six months?

A. Yes, there have been to the non-Bell customers.

Q. To the non-Bell customers?

A. Yes.

Q. But not to the Bell customers?

A. Yes, there were some increases to the Bell customers.

Q. Would that be general or——

A. General increases.

Q. General increases?

A. Yes, sir.

[fol. 5559] By Mr. Thompson:

Q. Do you mean by that, covering all of the major items sold by the Western Electric or covering only some of them?

A. It would only cover some of them.

By Commissioner Geiger:

Q. Referring to your statement that your profits have increased with volume of sales, I note in 1930, your sales were 338 million, in 1929, 372 million, in 1928, 268 million, and in 1927, 241 million. In other words, in 1930, your sales were almost a hundred million more in 1930 than they were in 1927, and yet in 1927, you made a per cent return on investment of 10.1 and in 1930, with this hundred million increase in sales, approximately, you only made 4.3 per cent?

A. Yes, sir.

Q. Now, that doesn't bear out your statements that your profits increase with the volume of your sales unless the volumes of your sales to the independents may have had some effect?

A. No, the profits increase with the volume of sales, that is one factor, but there are a lot of other factors. Now, that brings right up here right to the front the reason that we didn't make as much money in 1930 as we did in 1927, due to the extraordinary conditions that existed in the Western Electric along with a large number, all other manufacturing industries and outside of manufacturing industries in the year 1929 and 1930. In the year 1929, we increased our force something like 30,000 employees and that peak came about the end of 1929 in number of employees. When you increase a force from 50,000 to 80,000 in one year, your costs are going to go up, regardless of your volume of business, because it takes a long time to train a great number of these employees into the intricate policies of the manufacturing of complex appara-
[fol. 5560] tus that is sold to the Bell customers.

Q. You mean that the Western Electric Company in 1929 increased its force 60 per cent.

A. Yes, sir. That is roughly.

Q. Roughly 60 per cent?

A. Yes, sir.

Q. And that taking on of new and green hands lessened your profit?

A. Yes, sir.

Q. Even though your sales volume increase?

A. That is right.

Q. And you were just like all the rest of the people, you didn't see what was coming?

A. I will have to admit that, Mr. Commissioner.

Commissioner Geiger: Well, it is just an indication that the wisest people in the world didn't know what was going to happen.

Mr. Thompson: And that there is hazard even in this manufacturing business.

Commissioner Geiger: Yes.

By Mr. Thompson:

Q. Mr. Gregory, just along that line, did the Western Electric Company provide largely increased manufacturing facilities during these recent years?

A. Yes, sir.

Q. At what points?

A. During these recent years, we have more extensive additions at our Hawthorne plant, which is the older plant of the three main plants of the Western Electric Company. We made much larger additions to our Kearny plant, Kearny, New Jersey, and we built or started to complete a building of an entire new plant at Point Breeze, Baltimore, Maryland. Eventually the plan is that each of [fol. 5561] these plants will be of approximately equal size and will have about 30,000 employees apiece.

By Commissioner Geiger:

Q. Now, isn't it quite possible that your lack of return made on the latter years or your decrease in return may have been due to an excessive depreciation of your old machinery due to the building of new plants and putting in new machinery? This per cent return on investment is pretty largely dependent upon how much you charge off for depreciation, isn't it?

A. That is a very large factor, yes, sir.

Q. And if you were building new plants, you would probably charge off more for depreciation in those years than you would if you hadn't built the new plant?

A. No, sir.

Q. Not so?

A. No, we charge off for the old and new plants in the same ratio.

Q. Well, let me ask you just this general broad question, is the difference that you have shown in your final column, "per cent return on investment", from one year to another dependent considerably upon your depreciation of plant and machinery and tools and equipment, that you may show a good profit one year by not making such a heavy depreciation and the next year show a small profit because you made a heavy depreciation?

A. We maintain a uniform policy of depreciation and make no difference.

Q. So that wouldn't reflect the difference?

A. No. But the point is that we had a very much larger plant in the last two years, which increases the base on which these earnings must be applied, which results in the [fol. 5562] lower rate. That is one of those factors that should be added to the others that I mentioned affecting the return.

By Mr. Thompson:

Q. Have you made an investigation, Mr. Gregory, to ascertain the average profit of manufacturing companies other than the Western Electric over a five year period, 1925 to 1929, both inclusive, in an effort to ascertain what such manufacturing companies were earning on their investment?

A. I have.

Commissioner Geiger: Have you got that in the form of an exhibit?

Mr. Thompson: Yes, I have, Your Honor.

Q. I hand you now, Mr. Gregory, an instrument identified as Gregory Exhibit Number 2, on which appears the average investment and the average annual earnings of eighty-eight manufacturing companies for the five year period, 1925 to '29, both inclusive, and the per cent earned on investment by all of these companies. Please tell the Commission how these companies were selected by you for the purpose of making the calculation included on Gregory Exhibit Number 2?

A. These companies were selected from a standard statistics bulletin which is an index showing 570 odd companies of the larger companies and the companies which are well known throughout the United States. It includes industrial, utilities, mining, railroads, and so forth.

By Commissioner Geiger:

Q. How does it come you left out United States Steel?

A. I left out all the steel companies, Mr. Commissioner, because of the fact that while the steel companies are manufacturing companies, they have very extensive other interests. Take the United States Steel that you have men- [fol. 5563] tioned, it has ore mines, mines in a hundred different locations, has a large amount of money invested in land which will be mined later on. It has steam-ship companies, it has something like thirty trans-oceanic steam-s, and about eighty steamers that go on the Great Lakes and the rivers of the United States.

By Mr. Thompson:

Q. Operates about 3000 miles of main and side tracks, doesn't it?

A. Yes, it has a thousand miles of main track and about 3000 miles of side track.

By Commissioner Geiger:

Q. Well, the main answer is that you have taken strictly manufacturing companies?

A. Yes, sir.

Q. Left out railroad companies, oil companies, steel companies?

A. We left out extracting companies, too; that is, by extracting, I mean the mining companies and oil companies.

Q. And general utilities?

A. And general utilities, yes, because I felt that such companies were not comparable in their activities with that of the Western Electric Company.

By Commissioner Bricker:

Q. Which of these would be most comparable to your manufacturing business, supplying utilities or telephone companies?

A. Well, the General Electric is, of course, a very large company,——

Q. That shows substantially 10 per cent?

A. Yes, that shows 10 per cent.

Mr. Thompson: Now, there were certain other interests——

Commissioner Bricker: This was made in 1929. It wouldn't do to put this up on the bulletin board for 1930 and 1931. We all lost money then.

The Witness: We attempted to get the figures, but it is [fol. 5564] too early to get a sufficient number to make any kind of a comparison that would be worth while.

By Mr. Thompson:

Q. Is that because the annual reports of all of these companies are not available with the information needed for the comparisons that you have made?

A. That is right.

Q. And did you apply certain other tests, Mr. Gregory, before you included any company in this list?

A. I did.

Q. What were those tests in addition to the tests that have already been indicated?

A. In order that we might get those companies which would be comparable to the Western Electric Company as to size, we included only those companies whose earnings during this five year period averaged at least five millions of dollars, a million dollars a year, and in no more than one year would be less than one million dollars.

Q. Now, did these tests which you have indicated result in the elimination of all the companies which you investigated except the 88 companies appearing on Gregory Exhibit Number 2?

A. Yes, sir.

Q. That was 88 out of how many companies?

A. 570 odd, I think it was 579.

Q. Now, please state what the average annual earnings of these companies were in there entirety during the period referred to?

A. 13.4 per cent.

Q. And those earnings were figured on the basis of the investment of the companies as shown by their reports?

A. That is right.

Mr. Thompson: I now offer Gregory Exhibit Number 2.

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[fol. 5565] And thereupon the paper writing last above referred to was offered, introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Gregory Exhibit Number 2.

Q. Mr. Gregory, have you prepared another exhibit which has been identified as Gregory Exhibit Number 3, showing the net profits to sales of 38 companies during the five year period, 1925 to 1929, both inclusive?

A. I have.

Q. How did you select the companies included in this Exhibit Number 3?

A. The companies numbering 38 shown in this Exhibit Number 3 are all of those companies shown in the previous Exhibit Number 2, where we could find sales information.

Q. Does the total figure under column "Sales" in Gregory Exhibit Number 3 show an average or an aggregate figure of sales for this five year period?

[fol. 5566] A. That is an aggregate of eighteen billions of dollars for the five year period.

Q. Is that same thing true of the profits?

A. Same thing is true of profits.

Q. So that Gregory Exhibit Number 3 shows that with respect to the 38 manufacturing companies listed on the exhibit for more than 18 billion dollars worth of sales, the profit on sales of these companies was 12.2 per cent?

A. That is right.

Commissioner Bricker: The most nearly comparable there would be the General Electric and Westinghouse Electric?

The Witness: Yes, sir.

Mr. Thompson: I am going to follow this with another exhibit that relates all of these companies, that rates them on their profit on sales. We offer in evidence Gregory Exhibit Number 3.

Mr. Herbert: Same objection.

Commissioner Bricker: Objection overruled and the record may show exceptions.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell

Telephone Company, and is herewith submitted, marked Gregory Exhibit Number 3.

Q. Mr. Gregory, did you take the same companies appearing on Exhibit Number 3 and prepare an exhibit showing the ranking of these companies and the Western Electric Company during that five year period with respect to the per cent of profit on sales?

A. Yes, sir.

Q. Has that been identified as Gregory Exhibit Number 4?

[fol. 5567] A. Yes, sir.

Q. In this Exhibit Number 4, the per cent of profits to sales of the Western Electric Company for the five year period is 5.6, is that correct?

A. That is right.

Q. And what you have done is to take the companies as they are shown on Exhibit Number 3 and simply rate them or list them on Exhibit Number 4 in accordance with the ratio of profit on sales, beginning with the highest and ending with the lowest?

A. That is right.

Mr. Williams: We offer in evidence this Exhibit Number 4.

Mr. Herbert: Note the same objection and exception.

Commissioner Bricker: Overruled. Exception. It may be admitted.

And thereupon the paper writing above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Gregory Exhibit Number 4.

Commissioner Geiger: The National Supply, look at the total number of sales of the National Supply, probably the least on your list, almost least on your list.

The Witness: Yes, the National Supply had forty-seven millions of dollars of sales in this five year period.

Commissioner Geiger: Well, Columbian Carbon, that is the next one, it had forty-seven million?

The Witness: Yes, sir.

Commissioner Geiger: The International Cement had a [fol. 5568] large sale.

The Witness: Yes, sir.

Commissioner Geiger: But two that show the highest per cent on your Exhibit Number 4 are two of those with the lowest amount of sales?

The Witness: That is correct. We have attempted to get all the companies that we could find.

Mr. Thompson: You may cross-examine.

Cross-examination.

By Mr. Herbert:

Q. In preparing the figures as they appear in your Exhibit Number 1, Mr. Gregory, are we to understand, for example, turning to the year 1925, that the investment of the Western Electric in plant used in the manufacture of materials for the Associated Bell Companies was $162,520,000.00 in round figures?

A. Yes, sir.

Q. So that by relating the last column to the "net profit" column for any year, we can ascertain what you would testify to have been the book value of the Western Electric plant used in manufacture of products for the Associated Bell Companies for that year, the average?

A. It represents the average investment devoted to Bell business in that year.

Q. Will you tell us what you mean by investment then?

A. Investment, as I think I explained in direct examination, covers plant and merchandise, receivables, cash, less current accounts payable.

Q. Wherein does that differ from the book value as of [fol. 5569] those years?

A. The plant item in here represents the book cost of the plant.

Q. And the other items represent additions to the book cost, is that it?

A. What other items?

Q. The merchandise on hand, is that your——

A. The total investment is made up of the four items that I outlined, less accounts payable; that is plant, plus merchandise plus receivables plus cash, averaged during the period, less accounts payable.

Q. Quite right, so that by investment you mean in addition to book value, merchandise, receivables and cash, less current accounts payable?

A. That is right, book value of plant.

Q. Now, have you at hand the total figures of the total Western Electric investment for those years?

A. I have.

Q. Could you read them off for these same years?

A. What years do you refer to?

Q. 1916 to 1930, inclusive?

A. I have got them here divided between Bell and non-Bell and I can get those figures by addition, give you an approximation.

Q. Can you read off the figures for the non-Bell then?

A. Yes, sir.

Q. And I assume that by adding the two for any year, you would have the total?

A. That is right. 1916, $12,980,000.00.

Mr. Thompson: May I interrupt, Mr. Herbert, just a minute, so the record will be perfectly complete? I think it is. But these figures you are giving are the figures annually for the investment of the Western Electric in carrying on the non-Bell business?

The Witness: That is right.

[fol. 5570] Mr. Thompson: Pardon me, Mr. Herbert, I just wanted it to be perfectly clear.

Commissioner Geiger: You are not giving the profits?

The Witness: No, these are investment figures that I am giving.

Commissioner Geiger: What column would they compare with?

Mr. Herbert: They don't compare with any column on this Exhibit, Your Honor. They would compare with figures derived by computing the investment from the last column showing per cent. return, and the net profit column.

Commissioner Geiger: I see. Assuming that for 1925, you made ten per cent. and the net profit is 116 million, you assume that the value of the investment is 1160 million?

Mr. Thompson: Give me that figure again?

The Witness: 12,983,000. I said 12,980,000, it should be 12,983,000.

1917, 16,774,000; 1918, 23,105,000; 1919, 22,219,000; 1920, 26,557,000; 1921, 27,181,000; 1922 17,254,000; 1923, 19,267,000; 1924, 20,432,000; 1925, 21,348,000; 1926, 12,367,000; 1927, 11,186,000; 1928, 15,202,000; 1929, 26,419,000; 1930, 18,798,000.

Commissioner Geiger: What was the cause of the great variation in the amount of investment in certain years? You drop off very materially from 1925 to 1926.

The Witness: That business has wide fluctuations. The particular explanation in 1925 to 1926 is due to the formation of the Graybar Electric Company, which was formerly the Supply Department of the Western Electric Company, [fol. 5571] so after 1925, the figures for the Supply Department disappeared from this statement. That function is now carried on by the Graybar Electric Company.

Commissioner Geiger: Well, in 1925, there you practically split your business in two, giving half of it to Graybar and half of it to the Western Electric?

The Witness: Well, this is non-Bell, yes. That is what it meant. The Graybar, the supply business as far as investment is concerned represented in that year—of course, there might be other increases or decreases in other activities which would affect it, but the Graybar Electric investment is the largest factor there in explaining that decrease.

Mr. Thompson: And that property was sold to the Graybar by the Western Electric?

The Witness: No, that property was sold later on to the Graybar Electric, to the employees. It was sold to the Graybar Electric Company in 1925, but the ownership remained with the Western Electric Company until the end of 1928 when the Company was sold to the employees of the Graybar Electric Company who now own that company.

Commissioner Geiger: Those figures you gave were the value of the property, invested in producing the material that was sold to the non-Bell companies?

The Witness: Yes, sir. It is an allocation of our total investment between Bell and non-Bell business, as I explained in the direct-examination?

By Mr. Herbert:

Q. Would the sum of these two investment figures for any year represent then the total investment of the Western Electric Company for that year?

[fol. 5572] A. It represents the total investment of the Western Electric Company in operating business, that is operating business.

Q. Yes. Would there be any other investment?

A. Oh, yes, non-operating investments.

Q. Would there be any appreciable per cent.?

A. There is quite a large item. I haven't got those figures in mind. Their non-operating investment represents securities owned among other items.

Q. I mean how would that relate to the whole, would it be approximately 10 per cent. or 50 per cent.? I don't mean to bind you, I am just trying to get an estimate of the thing?

A. Well, it is not 50 per cent., it is a good deal less than 50 per cent. I don't carry the figure in mind, or I would tell you. It is a relative small per cent.

Q. That is what I meant. Now, have you the percentages at hand from which you testified that on non-Bell business, the average profit on investment was 10.5 per cent.?

A. Yes, sir.

Q. Would you just read those down for the years?

A. Percentages?

Q. Yes.

A. Yes, sir, 1916, 13.3. 1917, 19.5. 1918, 15.6. 1919, 11.7. 1920, 9.2; 1921, red figure, 9.8 per cent. 1922, 9.7

Q. Red or black?

A. Black. All black except when I say red.

1923, 15.2. 1924, 11.6. 1925, red, 3.1. 1926, 13.7. 1927, 11.6. 1928, 17. even. 1929, 24.2. 1930, 6.6.

Commissioner Geiger: Is there any relation between the fact that in 1925, you made the largest profit or at least one of the largest profits from the Bell sales and showed a loss [fol. 5573] of three per cent. for the non-Bell?

The Witness: No, there is absolutely no relation. There is a real explanation for the '25, if you wish to have me give it.

Commissioner Geiger: Well, not unless Mr. Herbert wishes. Well, what was the matter in your non-Bell business in 1925?

The Witness: I previously stated that in that year the Graybar Electric Company was formed and in that year in forming the Graybar Electric Company, we set aside a reserve of $1,400,000.00 for employees' benefits, which was our share, Western Electric Company's share under our pension plan which should accrue to the employees of the new company. Now, that 1,400,000.00 dollars could very properly, if we wanted to go back over the years, be apportioned against each of the years since the commencment of

the business, but we didn't do it, so there was nothing else for us to do but to make that charge in the year in which we made the sale to the Graybar Electric Company—formed the Graybar Electric Company. That is one of the items.

There is another large item of around two millions of dollars. In that year, we charge the development expense on Permaloy, for the use in telegraph cables to non-Bell business, development expense for radio apparatus, public address systems. That is, we incurred the expense in that year and we charged it off.

Q. Charged it off to the non-Bell operations?

A. To the non-Bell operations. The aggregate of all those development expenses were approximately two and a quarter million dollars. Later on, we found that this development expense, particularly on Permaloy, telegraph [fol. 5574] cables, the idea coming out of that expenditure was of great value to the telephone business and if we had gone back and should do the allocation today, we would have charged some part of that department expenses against the Bell business, and properly so in my opinion. Those are the two items, $1,400,000,000 and a million and a quarter, aggregating something like $3,600,000.00, which caused this loss of $672,000.00 in the year 1925.

Commissioner Geiger: Is Graybar a subsidiary of the American Telephone & Telegraph?

The Witness: It is not now, sir. Its common stock is owned by the Graybar Electric Company employees. They are paying in part—they still owe the Western Electric Company part of the purchase price which is covered by preferred stock and is being retired from year to year.

By Mr. Herbert:

Q. Now, have you comparable percentages for this non-Bell business as relating to net profit to sales?

A. I havent' that here. Of course, it is easily ascertainable by comparing the net profits—you can get at the net profits by figuring this percentage on investment to investment and then applying that result to the sales. It is just a question of arithmetic.

Q. We haven't got the sale anywhere, have we?

A. No, that is true, you haven't got the sales. I have them here if you wish.

Q. Now, turning to your Exhibit Number 4 for a minute, does that figure of 5.6 per cent. include both Bell and non-Bell sales?

A. That is on the total business.

Q. That is on the total business?

[fol. 5575] A. Total business, yes, sir.

Q. Now, have you got those sales figures on non-Bell business for those same years, 1916 to 1930?

A. I have, sir.

Q. Will you read those to us?

A. Yes, sir. 1916, 33,072,000. 1917, 45,658,000. 1918, 66,009,000. 1919, 55,361,000. 1920, 75,400,000. 1921, 46,880,000. 1922, 50,984,000. 1923, 67,018,000. 1924, 64,981,000. 1925, 71,029,000. 1926, 15,902,000. 1927, 12,662,000. 1928, 20,123,000. 1929, 38,566,000. 1930, 22,648,000.

Q. Those are the total non-Bell sales directly comparable to the total Bell sales as they appear in the first column of your Exhibit 1?

A. They are non-Bell sales that were made in those years, yes, sir.

Q. I mean they are comparable in the sense that those represent the total sales made by the company in those years?

A. The typewritten statement in Exhibit Number 1 represents the total sales to the Bell systems. The figures that I have just given you represent the sales by years to the non-Bell customers.

Q. Do you have the total cost of those non-Bell sales by years?

A. No, I have not. That can be ascertained, of course.

Q. In other words, I am trying to fill in a comparable sheet to your Exhibit 1, but we havn't got the amount to fill in the second and third columns. You mentioned taking the inventory at either cost or market, whichever was the lowest. When is that inventory taken?

A. When?

Q. Yes.

A. December 31, in each year.

A. And by cost, do you mean what?

[fol. 5576] A. Cost to the Western Electric.

Q. Well, you have got a certain article on the shelf that hasn't yet been sent out to the Associated Bell Company?

A. Yes, sir.

Q. How do you compute that cost?

A. It is the cost of manufacture adjusted for condition; if it is not a hundred per cent. new or it is obsolete, why, of course, we have to make adjustments for obsolete apparatus, and it is the cost of supplies which we purchase from outsiders.

Q. Well, isn't the cost then to the Western Electric always or almost always lower than the price to the Associated Bell Companies?

A. It should be if we are going to make a profit.

Q. Then what did you mean then by saying that you take inventory at either cost or the market, depending upon which one is the lowest?

A. Well, I had reference particularly to materials, raw materials. For instance, copper and lead, which has wide fluctuations in value——

Q. Rather than to the finished products in your inventory?

A. Yes. We adjust the finished product on the basis of cost modified as to condition.

Q. I am afraid I didn't understand you in your testimony in regard to the present prices being charged to the Associated Bell Telephone Companies. I believe you said they are generally higher than they were in 1930, or what was your testimony in that regard?

A. I think Mr. Commissioner asked me whether there had been any increases in prices within the last six months to the Bell Telephone Companies; is that the question that you refer to?

[fol. 5577] Q. That is it?

A. And I answered that there had been some increases in prices in the last six months.

Q. But no decreases?

A. No decreases in the last six months.

Q. Then you said the increases had been general?

A. I said on some apparatus, I think I was asked the question whether they were general and I said on some apparatus, some pieces.

Q. By general, did you mean—you meant to all companies or general over the entire list of articles?

A. I had in mind the list of articles. The prices as far as customers are concerned, any change in price level would be applicable to all of our customers.

Q. Then will you say that the price level was generally higher on articles manufactured by the Western Electric for the Associated Bell Companies now than it was six months ago?

A. Yes, sir.

Q. And did you account for that or did you have any explanation for that?

A. Well, the explanation is this, you will notice from this statement that whereas in 1929, we had a business of 372,000,000 dollars to the Bell Companies and we were asked to provide plant capacity to take care of even a larger volume of business and we started to provide that capacity, and spent a good many millions of dollars in doing so at Point Breeze and Kearny and at Hawthorne. Instead of getting the increase of business, we get a very marked decrease in business, and the result of that market decrease in business meant a very substantial reduction in the profits of the Western Electric Company, and so it was necessary for us to increase prices, but this should be taken in connection with reductions.

[fol. 5578] Q. Yes, but I believe you testified that 96 cents of every dollar spent in 1930 in production was used up in labor and material combined?

A. That is right, 96 cents out of every dollar.

Q. And yet you say that in 1930 there is a marked decrease in material cost and no change in labor prices, although the efficiency of labor has gone up.

A. Will you ask that question again?

(Question read.)

A. Yes. The answer to that is this. It is true that the efficiency of labor has increased; it is true that materials have fallen off. But those factors are not sufficient to offset the factors of having an investment much larger than we need at this particular time in plant and combined with the great decrease in the volume of business which the Bell Companies are placing on the Western Electric Company in the current year. It is purely a question of weighting.

Q. In other words, the Western Electric has so much excess plant, so much plant in excess of its needs today, that in spite of the fact that material prices are down and in spite of an increased efficiency in the labor market which has remained the same, the prices must go up in order to pay a return on that excess plant?

A. You have left out one factor, and that is, combined with the great decrease in the volume of orders placed by the telephone companies on it.

Q. Have you the volume of sales for the first three months of 1931 to Bell Associated Companies?

A. Yes, sir.

Q. What is that figure?

A. I haven't got the papers, but I have got it in my [fol. 5579] mind. $65,000,000.00 as compared with 98,000,000 the first three months in 1930.

Q. Are your sales uniform over the same period of months in each year?

A. There is a seasonal factor. But in making the comparison that I have just given you, I have compared the same three months in '30 and '31.

Q. Yes. That is why I asked you. Would that 98,000,000 in 1930 for the first three months of that year, could you strike the percentage from that which would be applicable to '29, '28, '27 or any of those preceding years? In other words, can you say that 98,000,000 out of 338,000,000 for 1930 would give you a percentage which you should find relatively uniform for that same three months period in any other year?

A. It varies year by year, but that is approximately correct. But in the year 1930 and 1929, they were unusual years, and there you can't use the average percentage which will hold true over a ten year period.

Q. So that the mere fact you had about 65,000,000 the first three months in this year, you can't predicate on that that you will only have approximately 200,000,000 for 1931?

A. No. Our estimate of sales for 1931 at this time is $280,000,000 for all companies. Now, you will have to deduct from that the sales to non-Bell Companies, and I don't happen to have that in mind as to the amount to the non-Bell customers. I might say in those quarterly figures that I gave you, they are sales as to all customers, not to Bell customers.

Q. When did the American Telephone & Telegraph Company gain control of the Western Electric Company?

A. In 1882.

Q. So that the control has been constant throughout the [fol. 5580] period of years testified to here?

A. Yes, sir.

Q. Returning again to your Exhibits 1 and 4, have you

the average per cent net profit to sales for the years 1925 to 1929, inclusive, on Bell sales, that is, sales to Bell Companies?

A. That is a matter of computation. I haven't it. I want to make one correction there in that statement. I just made some computations. The figure I gave you is incorrect to this extent, that that over-all figure I said was 5.6. That should be 5.9 instead of 5.6.

Q. Didn't you say that this figure as it appears in Exhibit Number 4——

A. I beg pardon——

Q. Per cent profit to sales as to both Bell and non-Bell Companies?

A. Yes. These are the correct figures. Bell is 5.9. The total is 6. We put it here.

Mr. Thompson: On Exhibit 4?

The Witness: On Exhibit 4, yes, sir.

Mr. Herbert: I am trying to find the figures whereby we can check the 6 per cent that he now testified to. We haven't got to those yet. I believe the witness testified some time ago that he has not got the figures on total cost of sales to non-Bell companies. If we had those, we could set up a table comparable to this entire table as it appears in Gregory Exhibit Number 1. We haven't got those. The witness said he didn't have them. Now, he testifies that that 5.6 should be changed to 6 per cent even as related to all the sales, both Bell and non-Bell.

The Witness: I can give you the sales figures which I have just——

Q. Sales cost figures?

A. No, the sales figures.

[fol. 5581] Q. We have those?

A. Sales figures for Bell customers and other than Bell customers. You add those figures together and divide it into the profit you also have there and you will get this return for that five year period.

Q. We haven't the profit column for non-Bell?

A. You get the profit column by multiplying the per cents there by the——

Commissioner Geiger: Would it be possible, Mr. Herbert, for you to state to him what sort of an exhibit you would like to have and then he might prepare it and submit it.

Mr. Herbert: The same figures with reference to non-Bell sales, that is, arranged in the same manner as in Gregory Exhibit Number 1.

Mr. Thompson: Do you have the information, Mr. Gregory, from which you could prepare an exhibit comparable to your Exhibit Number 1, giving Mr. Herbert the data which he asks for with respect to non-Bell business?

The Witness: I have. I can make it up. I haven't got it in such form, but I can make it up in an hour's time or so.

Mr. Thompson: Could we have it immediately upon the Commission's reconvening this afternoon?

The Witness: Yesk sir.

By Mr. Herbert:

Q. May I ask, Mr. Gregory, what figures you computed from just now in order to ascertain that the over-all figure should be six per cent in place of 5.6?

A. I took the earnings for this five year period for Bell Companies, '25 to '29.

Q. Those don't appear in any exhibit, do they?

[fol. 5582] A. The Bell Company's?

Mr. Thompson: They appear on Exhibit 1, do they not?

The Witness: Exhibit Number 1.

Q. Pardon me, that is correct.

A. And I add to that the profit figures that I have here on non-Bell business for '25 to '29 inclusive.

Q. What are those profit figures?

A. Shall I give them now or would you like to have them in an exhibit.

Q. I mean, are they in per cents or dollars?

A. Dollars.

Q. Well, then you have the figures there for non-Bell companies comparable to the third column as it appears in your Exhibit Number 1?

A. Yes, but your question was, did I have the cost of sales, and my answer was that the cost of sales could be ascertained by taking the profits from the sales figures.

Q. Now, will you give us the net profit column then on non-Bell sales?

A. Yes, sir. 1916, 1,730,000.

Commissioner Geiger: Pardon me, isn't he to furnish an exhibit after dinner covering that?

Mr. Thompson: Correct.

Commissioner Geiger: Why go over it now, Mr. Herbert?

Mr. Herbert: I would like to do a little checking myself between now and the time of reconvening. If he just reads this column in, then I am ready to adjourn.

Commissioner Geiger: But he will have it in the exhibit that he produces this afternoon. All right.

Mr. Herbert: Whichever you wish.

Commissioner Geiger: I don't see that we would gain anything by reading it in and then producing it this afternoon in the schedule.

[fol. 5583] Mr. Thompson: If the Commission please, may I suggest that, that, we adjourn at this hour, Mr. Gregory will prepare the Exhibit, but before he goes, he will give Mr. Herbert these figures off the record, and that will give Mr. Herbert what he wants, and will save the record.

Commissioner Geiger: That is very fine, if agreeable to Mr. Herbert.

By Commissioner Geiger:

Q. Now, let me ask one thing, if you please, is there a contract by which the Bell Associated Companies are under obligation to buy from the Western Electric Company any equipment that the Western Electric Company makes?

A. No, sir.

Q. May they go out into the open market and buy it from anyone else?

A. Yes, sir.

Q. And do they do that, if you know?

A. I don't know of my own knowledge.

Q. Well, does the Western Electric Company make all of the equipment used in the operation of a telephone plant?

A. Practically all.

Q. Practically?

A. Yes, sir. I don't know how much they buy from outside people.

Q. Is there a contract existing between the Western Electric Company and the Bell or the American Telephone & Telegraph as to the purchases to be made by the Associated Bell Companies from the Western Electric?

A. You refer to the so-called 1882 contract?

Q. Well, I don't know. I don't refer to that service, one and one-half per cent.

Mr. Thompson: I think the Commissioner is referring to [fol. 5584] the supply contract that is executed between the Western Electric and the various Bell Associated Companies under which telephone apparatus, materials and supplies are sold by the Western Electric to the Ohio Bell and other Bell Associated Companies.

Commissioner Geiger: Is that in the record already?

Mr. Thompson: It is already in the record.

Commissioner Geiger: All right.

By Mr. Herbert:

Q. May I ask one point, do not the Associated Bell Companies buy the materials specified by the A. T. & T. Company? Aren't there specifications set out by the A. T. & T. Company to all the Associated Bell Companies specifying just what type of material will go into any new project?

A. You are asking me, I think, an engineering question. I am not an engineer.

Q. Well, you have answered the question of the Commissioner that the Bell Telephone Company can go out into the open market, showing that you are familiar with the supply contract?

A. Yes, I know that from general information.

Q. Now then, as a matter of fact, isn't Western Electric material specified in practically nearly all cases for the Associated Bell Companies to buy?

A. I think that is true, but that is only my thought. I don't know.

Q. I just merely want to get in the record at the same point with the question and answer.

(No response.)

By Commissioner Geiger:

Q. Well, would that modify your former answer?

A. No, sir.

Q. That they may go out into the market and buy it?

A. Yes, sir.

[fol. 5585] Q. In spite of the fact that the American Telephone & Telegraph Company has designated what material it shall use and the material that they designate is material that is manufactured by the Western Electric Company, it would not prevent them from going into the market and buying it?

A. It is made under these specifications, but it may be bought from other manufacturers than the Western Electric Company and they are buying, I now recall that they are buying through the Western Electric Company, it is true, but the goods are manufactured by Stromberg-Carlson and Kellogg, Automatic Electric Company.

By Mr. Herbert:

Q. But the Western Electric buys that first, doesn't it?

A. Yes, sir.

Q. And then re-sells to the Associated Companies with just a carrying charge added to it?

Mr. Thompson: Your Honor, I think in that connection that Mr. Cox in his testimony went very fully into the question of the specifications under the supply contract and all those various things, and Mr. Gregory, as chief accounting officer of the company, is really not familiar with the engineering practices, and it would seem to me that——

Commissioner Geiger: Well, if it is in the record, it is manifestly not proper to put it in again.

Mr. Thompson: He ought not to be required to go beyond his personal knowledge.

Commissioner Geiger: Well, is everyone favorable to adjournment at this time? We will adjourn until one thirty.

And thereupon an adjournment was taken until 1:30 o'clock P. M. of the same day (April 16, 1931.)

[fol. 5586] Thursday Afternoon Session

April 16, 1931.

And also Richard H. Gregory, resuming the stand, continued his testimony as follows:

Examined by Mr. Herbert:

Q. Just before the noon recess, Mr. Gregory, you were asked if you could give us the net profits and the percentages related to the gross sales of the Western Electric Company to non-Bell Companies for the years 1916 to 1930, inclusive, and you offered at that time, did you not, to prepare that information in a table form comparable to your Gregory Exhibit Number 1?

A. Yes, sir.

Mr. Herbert: I am perfectly willing to stipulate, Your Honor, that that go in as Gregory Exhibit Number 5, but it is not being offered by or on behalf of the State. I am getting that information into the record by oral questions and answers until the Commission suggested it be reduced to tabulated form.

Mr. Thompson: I am entirely content, Mr. Herbert, to have *have* it go in under your suggestion.

Commissioner Bricker: It may be admitted.

And thereupon the paper writing above referred to was offered, introduced and admitted in evidence and is herewith submitted, marked Gregory Exhibit Number 5.

[fol. 5587] By Mr. Herbert:

Q. Now, will you tell us, Mr. Gregory, how you separated the investment of the Western Electric Company between that used in the production of materials for the Associated Bell Companies and that used in the production of materials for the non-Bell Companies?

A. I testified to that quite completely this morning touching upon——

Q. Will you just re-state it?

A. The manufacturing cost of material and equipment and cost of supplies are the same for both the Bell and the non-Bell customers. There is no allocation in such case as that. The cost of installation is also a direct cost. Then the other costs, some of the other costs are subject to a time factor study.

Mr. Thompson: Mr. Gregory, may I interrupt you just a moment? I don't believe that you understood Mr. Herbert's question. He asked you not how you separated the costs, but how you separated the investment between Bell and non-Bell business.

The Witness: Oh, I beg your pardon. The investment in Bell and non-Bell is divided item by item. That is, taking the main items of investment to which I testified this morning, plant, merchandise, receivables, cash, accounts payable, on the basis of usage for the Bell business as compared to the non-Bell business.

Q. Who determined that usage?

A. That is determined on manufactures by the amount of production which has gone into sales to the non-Bell customers as compared with Bell customers.

Q. To put that another way, do you mean that the separation was based on the amount of sales to the one plant or the other?

A. Not on the amount of sales, but on the amount of the [fol. 5588] production, that is, the quantities produced at the cost figure, which quantities would be sold either to Bell or non-Bell customers.

Q. Well then, the investment was divided on the same basis as your second columns would bear towards each other in each of these Exhibits 1 and 5, is that correct?

A. You ask me about plant? Of course, merchandise—there are other items of investment.

Q. Let's confine ourselves to book value or to plant alone?

A. Well, I might express it in another way that if the cost of our manufactured goods to the non-Bell customers is, we will say, for example, $500.00, and the cost of the manufactured goods to the Bell customers is a hundred thousand dollars, then the investment assignable to the non-Bell business would be .5 of one per cent. That is purely just an example to illustrate the point.

Q. Could you answer yes or no in the manner in which I put the question?

A. I don't understand the question.

Q. (Previous question read as follows: "Well then, the investment was divided on the same basis as your second columns would bear towards each other in each of these exhibits 1 and 5, is that correct?")

The Witness: I think I will have to have a little further information before I can answer that question, I don't think I understand it.

Q. Let me ask you this question then, does your division of investment as between Bell and non-Bell investment, does that bear the same proportions for each of these years as your total cost of sales for each class of material for those same years, as shown by your Exhibits 1 and 5?

[fol. 5589] A. In general, that is true, in general.

Q. Do you know where there would be any variation from that or why?

A. No, I don't know of any offhand.

Q. Well then, your allocation of investment for the purpose of preparing these two exhibits is based upon your cost

of sales for each class of article in those years, in general?

A. That is right.

Q. And not computed on any basis of plant appraisal with a view to determining what portion of the plant is constantly used in the manufacture of Bell articles and what portion is constantly used in the manufacture of non-Bell articles or on any time basis?

A. I think I can clarify that by giving you an illustration. The apparatus that we sell to Bell and non-Bell customers is made in the same place. Some of the parts are manufactured on the same machines and those parts may be made in a number of different departments in various parts of the building. The only practical way of determining what the plant investment is is to relate it to the cost of those particular parts.

Q. Now when the Western Electric sold off a certain portion of its business and started the Graybar Company, was that in 1925, you say?

A. End of 1925.

Q. Was physical plant transferred to the Graybar Company?

A. To a relatively small amount.

Q. A million dollars?

A. Less than a million dollars.

Q. Less than a million dollars. Now, will you turn to your Exhibit 1, to the year 1925, you show an investment value of $162,000,000.00?

A. Yes, sir.

[fol. 5590] Q. And for 1926, you show an investment value of approximately $161,000,000.00?

A. Yes, that is right.

Q. This morning you testified that for 1925, you allocated the investment of the Western Electric to non-Bell production at $21,384,000.00?

A. Correct.

Q. And for 1926, at $12,367,000.00?

A. That is right.

Q. Approximately nine million less?

A. Yes, sir.

Q. So that you show ten million less in investment between '25 and '26?

A. That is right.

Q. Total?

A. That is right.

Q. Have you any explanation you can give us on that, Mr. Gregory?

A. Yes, sir. When we formed the Graybar Company, it took over not only this item of plant which I have just testified to of less than a million dollars, but it took over the merchandise stocks applicable to that business and the receivables applicable to that business, and the cash that is applicable to that business, less the accounts payable applicable to that business.

Q. That would make the other nine million?

A. Approximately, yes, sir.

Q. Well, your receivables and your payables would approximately offset each other, wouldn't they?

A. No.

Q. Which one is the greater average?

A. I would say that the receivables are—this is my impression, I haven't examined the figures for three or four years, but my impression is that the receivables are greater than the payables.

Q. So that of this $21,384,000.00 that you count as investment for non-Bell companies in 1925, approximately nine million of it was merchandise?

A. No. I said the difference, the amount of investment [fol. 5591] that was turned over in the formation of the Graybar Company consisted of plant, merchandise, receivables, which were in my impression larger than payables, less the payables.

Q. Would the receivables have been over a million larger than the payables?

A. Oh, I think so.

Q. Two million?

A. Well, I have got in mind the total investment that was turned over at that time. It was about nine million dollars, including the plant, merchandise, receivables, cash, less accounts payable.

Q. Let me ask you then, what would be your estimate of that nine million which constituted merchandise?

A. Possibly two-thirds.

Q. Or six million, an approximation?

A. Yes, that is an approximation.

Q. So that as of the year preceding, you are giving investment twenty-one million, six million of that merchandise on hand?

A. That is applicable to this particular part of the non-Bell business.

Q. Merchandise on hand in any other venture would be considered working capital, would it not, as a part of it?

A. Yes, and working capital, of course, is a part of the investment the business had.

Q. Would that average hold good through these other years, to the best of your knowledge, six to twenty-one, prior to the creation of the Graybar Company?

A. 1916 to '21, is that what you mean?

Q. '25?

A. I thought you said previous years.

Q. I say, would that average of six to twenty-one——

[fol. 5592] A. Oh, I see. Well, that, I am not able to answer that question because of the fact that the merchandise stocks that the Graybar has had or the supply department prior to the formation of the Graybar fluctuates quite widely and varies in different years, depending upon the volume of business and depending upon the merchandise conditions in each particular year. Those facts are all available, but I don't carry them in mind.

Q. I am just trying to break up that twenty-one million as of 1925, as an example of what proportion went to make up plant, merchandise, receivables and payables.

A. Yes.

Q. Those are the four items, I think you said, by which you arrived at your figures for investment?

A. And cash.

Q. Adding those and deducting the payables?

A. That is right.

Q. Now, have you those figures broken down anywhere?

A. No, I have not, not here.

Q. Would you say that the same percentages applied as to the investment allocated to Bell property same ratios?

A. Well, the Bell business is of an entirely different character from the supply business. The Bell business is a question of manufacturing stock, and the process of manufacturing and merchandising must be carried on over quite a period of time. The merchandise stocks that are involved in the supply business are, for the most part, stocks of merchandise purchased from others, and the turnover is necessarily quite rapid. Therefore the amount of stock on hand represents a smaller proportion of the investment than on the Bell business.

Q. Mr. Gregory, you testified that these investment amounts were separated approximately in the same ratio as [fol. 5593] the total cost of sales for Bell and non-Bells?

A. As to plant.

Q. As to plant?

A. Yes, sir.

Q. Then you mean the variation is not so great as to merchandise?

A. Merchandise, the merchandise stocks comprise a much larger part of the investment in the Bell business than they do in the non-Bell business.

Q. Well then, can you give us an exhibit showing these investments for the same years separated out into the five items which you have testified go to make up each one, namely, plant, merchandise, cash, receivables, less payables?

A. I haven't it here. It is a matter of record.

Mr. Herbert: I will ask that that be put in the record in connection with these exhibits.

Mr. Thompson: I have no possible objection to that, marked Gregory Exhibit Number 6.

The Witness: May I ask what years?

Q. Same years?

A. '25 and '28?

Q. I am using '25 and '26 as an example. I would like to have them corresponding to the same years which appear in the Exhibit.

Mr. Thompson: '16 to '30.

The Witness: All right.

Commissioner Geiger: Mr. Gregory, let one column indicate the total, of course, separating them into different items, but let one column indicate the total, so that we can see what the total is for each year.

The Witness: Yes, sir. That will take a little time to prepare.

Mr. Herbert: Your Honor please, we have the totals in [fol. 5594] exhibits 1 and 5.

Commissioner Geiger: We haven't them in the record now.

Mr. Thompson: Except by a process of calculation.

Commissioner Geiger: Except by a process of reversing it and calculating it.

By Mr. Herbert:

Q. Now then, comparing your exhibits 1 and 5 once more, Mr. Gregory, you show an average per cent net profit to sales in Exhibit Number 1 of 4.9 of an average on Exhibit Number 5 of 4.5, or .4 of one per cent less?

A. Yes, sir.

Q. And your return on investment in Exhibit 1 shows seven per cent and on Exhibit 5, 10.5 per cent?

A. That is right.

Q. Can you explain to the Commission how in the one column your per cent profit on non-Bell sales is lower by a half of one per cent and in the other column it is higher by three and one-half per cent, can you reconcile that?

A. Yes, sir. The answer is that the investment in the Bell business is turned over less rapidly than on a purely merchandising business. That, in general, is the answer. For instance, it takes a longer time to manufacture a switchboard, merchandise it, ship it and install it, than it does to buy a million pounds of line wire and sell it to a supply customer the next day. Those are extreme examples, but I think illustrate the point. And there are all variations in between the quick turnover practically in the line wire case of getting your money as soon as you have to pay for the bill to the supplier, to this other case of the manufacture [fol. 5595] of a switchboard which involve the long time process of engineering, manufacture of the various parts, assembly of the parts, delivery of that assembled switchboard to the location in the Associated Company territory, installing it, cutting it over, having it ready for service.

Q. You mean then that the turn-over in the non-Bell sales is much more rapid than in the Bell sales?

A. Yes, sir.

Q. And that the businesses are not therefore comparable exactly on a percentage basis?

A. I didn't get—I missed a few words there.

Q. The non-Bell business is not comparable to the Bell business for that reason?

A. Well, it is comparable to the Bell business in that——

Q. Or rather, not similar to it.

A. On the Bell business, we earned seven per cent, and on the other business we earned 10.5 per cent.

Mr. Burr: On the investment?

The Witness: On the investment.

Q. Are you conversant with the nature of the business in that regard of sales demand?

A. Only in a general way, as an accounting officer would be.

Q. You are satisfied that there is a quicker turnover of the non-Bell business than the Bell business?

A. Oh, yes, that has been true ever since I have been connected with the Company.

Q. Did that obtain before the creation of the Graybar Company?

A. Oh, yes.

Q. As a matter of fact, you mentioned the construction of switchboards, did you not?

A. Yes, sir.

[fol. 5596] Q. Isn't it the practice of the company in regard to switchboards for independent operating companies, non-Bell Companies, to go out and bid on a complete installation, submit a bid on that job installed in place ready for service?

A. Is your question directed to the Bell business?

Q. Isn't that the practice of the Western Electric Company with regard to non-Bell companies? A project is started somewhere and a request is made to the Western Electric to bid on a completed job, is it not?

A. It is done both ways. Sometimes the contract is signed and other times it is done on the basis of the price of the material going into the switchboard.

Q. The Western Electric makes switchboards for non-Bell companies on that second basis?

A. I don't know the answer on the non-Bell business.

Q. That is what I am talking about?

A. I thought you meant on the Bell business.

Q. You described the difference, if I am correct, in explaining that the turn-over was quicker in non-Bell business than Bell business, you cited as an example the sale of switchboards, did you not?

A. Right.

Q. Now, I am asking you to tell the Commission what the practice of the Western Electric Company is, general and usual practice with regard to the sales of complete switchboards to non-Bell Companies, isn't it done on a basis of bidding for a completely installed job? Is the question ambiguous or——

A. Well, it is a little bit ambiguous. I think I get what you are after and I will attempt to answer it in this way. A switchboard, whether it is manufactured for a non-Bell [fol. 5597] or a Bell Company has to go through the same process of engineering and the manufacture of the various parts, the merchandising and delivery and if installed by the Western Electric Company, time for that, so that the investment as far as switchboards are concerned would be, on the whole, comparable for its Bell and non-Bell business.

Q. In other words, there is no quicker turnover there?

A. Except insofar as the Bell switchboards may be considerably more intricate and complex than the non-Bell business, a non-Bell switchboard.

Q. Isn't it a fact, Mr. Gregory, that the usual switchboard installation for a non-Bell Company is done on a total over-all agreed price basis arrived at by competitive bidding in advance or perhaps by contract in the absence of competitive bidding?

A. I don't know the answer to that question.

Q. Whereas, the installation for an Associated Bell Company is simply done on a specification basis, the order is placed and the cost is computed on a unit cost basis either before, during or after installation, or do you know?

A. I don't know what the sales arrangements are with reference to switchboards, sold to the non-Bell customers.

Q. And isn't it a fact that the Western Electric is kept apprised in advance of the expected requirements of the Associated Bell Companies so that it can manufacture and deliver right in accordance with a schedule, a production schedule as to Associated Bell Companies?

A. There are general plans given in advance which are a guide to the Western Electric Company in the preparation of the facilities which enable the Western Electric Company to be in shape to manufacture promptly when the [fol. 5598] orders are received.

Q. And the errors in estimated demands run one way as well as the other, don't they, all over the United States, so that they about strike a balance, do they not?

A. They are all one way now.

Q. Other than this particular period, would you say that they have always been one way?

A. I will have to answer that the same way, that I am not familiar with the sales arrangements. That isn't a part of my responsibility to make contracts with the Asso-

ciated Companies. That is handled by an entirely different department.

Q. But you have testified that from your knowledge, the turn-over is much more rapid in non-Bell products than it is in Bell products?

A. Yes, sir.

Q. And I am asking you if it isn't a fact that the Western Electric is given advance information and can develop up a production schedule exactly in accordance with the estimated needs of all the Associated Bell Companies in the United States?

A. I think I can answer that by saying this, that as far as switchboards are concerned, I feel sure that the investment, there is a longer time for investment, I mean a longer time for the delivery from the time of the receipt to the shipment, than there is in the non-Bell business.

Q. Apart from switchboards?

A. Apart from switchboards, the turn-over on the non-Bell business is a great many times more rapid than on switchboards.

Q. But will you say whether or not the Western Electric has advance information on Bell production which it does not have for non-Bell production as to the estimated needs of the industry?

A. I can say this, that the relative importance of switch-
[fol. 5599] boards in the non-Bell business——

Q. Apart from switchboards; we have left switchboards.

A. The relative importance of apparatus that is manufactured in the shops where the investment is largely telephone is smaller on non-Bell business than it is on Bell business. As I testified before, the largest part of the sales to non-Bell customers are sales of material purchased from others and sold to them, and the Western Electric Company's end from an investment standpoint is a relatively small part of its investment; that is, the Western Electric manufactures is less because of the small volume, a small volume to the total volume of sales to the non-Bell customers.

Q. But you are unable to answer us as to the method of the Western Electric Company in its usual method of sale of switchboard equipment to non-Bell companies?

A. No, I have no information.

Q. You don't know whether or not they do that on a

complete job basis or whether they do it on a unit cost basis as they do to the Associated Companies?

A. I am not in the sales department.

Mr. Herbert: I will have to ask the right to cross-examine the witness at a later time after the record is transcribed.

By Commissioner Geiger:

Q. Mr. Gregory, I note your Exhibit Number 5 discloses a marked change in the amount of sales made to the non-Bell concerns between 1925 and 1926; that is, you had 71,029,000 in 1925 and 15,902,000 in 1925. Now, I understand that occurred from the fact that the Graybar was organized in that time?

A. Right.

[fol. 5600] Q. And that the Graybar afterwards continued to be the sales organization to sell to the non-Bell Companies, is that right?

A. To some of them.

Q. Well, now, did the Graybar have anything to do with the sales to the Bell Associated Companies?

A. There are relatively few sales to the Bell Companies by the Graybar company. They con-ist of sales to employees, for the most part, of equipment which the Graybar handles, such as vacuum, cleaners, fan motors, radio equipment and so on.

Q. Well, never mind going into detail about it. It takes a little too long. But probably in confirmation of that, your Sheet Number 1 shows that in 1925, sales to the Associated Bell business was 226,000,000, 1926 was 247,000,000.

A. Yes, sir.

Q. And then constantly increasing until 1930?

A. Right.

Q. Would that indicate that the Graybar had nothing to do with the sales as intervening between the Western Electric Company and the Bell Company associates?

A. None at all as shown on Exhibit 1. That is entirely Western Electric business.

Q. What I am trying to get at, and I will put the question directly, does the Graybar buy from the Western Electric Company and sell to the Bell Company?

A. No, sir.

Q. It has nothing to do with any profit that intervenes between the manufacture of the goods by the Western

Electric and its purchase by the Associated Bell Companies?

A. No, sir.

Q. So that there is no element of profit in there?

A. No, sir.

Q. Let me ask the other way around, does the Western [fol. 5601] Electric Company buy anything from the Graybar Company as a purchasing company?

A. The Western Electric Company on certain contracts which the Graybar Company has for purchases of—not Western Electric Company material as you would classify it, but we might say fan motors or radio equipment, very little of that material that we don't manufacture.

Q. Let me get it so that we will get it a little quicker. You spoke a bit ago about the Graybar going out into the market and buying something and selling it at once?

A. Yes, sir.

Q. And made a profit on it, a quick turnover?

A. Yes, sir.

Q. Does the Graybar to any extent go out into the market and buy material that it afterwards sells to the Western Electric Company?

A. No, sir, not to any material extent. There are some cases where the Western Electric Company and the Graybar Company combine their efforts, their purchasing power, in order to get a low price, and in that way, the Western Electric Company and the Graybar pool their interests to get a low price from the supplier, which, in turn, of course, is passed on to the Bell Companies.

Q. Let me put the question a little more direct. Is there any transaction in relation to anything manufactured by the Western Electric Company and used afterwards by the Associated Bell Companies, in which the Graybar had any profit, either in buying, selling or making?

A. No, sir.

Q. Now, could you give me just a short picture of the Graybar. As I understand, that separated from the Western Electric Manufacturing Company in 1925?

[fol. 5602] A. At the end of '25.

Q. And the common stock is held by the employees of that company?

A. The common stock is held by the employees of the Graybar Electric Company. No Western Electric em-

ployee has one share of stock in the Graybar Electric Company.

Q. Well, who owns the preferred stock?

A. The preferred stock is now owned by a subsidiary, a holding company of the Western Electric Company.

Q. So far as the preferred stock is concerned, it is held by a subsidiary of the Western Electric Company, which is the subsidiary of the American Telephone & Telegraph Company?

A. That is pending the time that the employees can provide the necessary funds to pay it off entirely.

Q. But in the meantime, that preferred stock pays a dividend which ultimately gets into the treasury of the A. T. & T. Company?

A. It is not considered—it is considered as non-operating revenue as far as the Western Electric Company is concerned, and of course, contributes——

Q. That is all right. I don't care how it is considered, but ultimately the dividend on the preferred stock of the Graybar Company through its subsidiary and through the Western Electric Manufacturing Company does get into the treasury of the A. T. & T. Company?

A. Through the regular dividends of the Western Electric Company, yes.

Q. So that to the extent at least of getting a dividend upon the preferred stock, the A. T. & T. Company is interested in the Graybar Company?

A. During this interval of time——

Q. I know, we are not talking about that. We are talking about it has been ever since 1925?

A. Yes, sir.

[fol. 5603] Q. And there is still outstanding preferred stock upon which the A. T. & T. Company gets a dividend?

A. I want to make this——

Q. Is that so?

A. Will you repeat the question?

Q. There is still outstanding preferred stock of the Graybar Company held by some subsidiary of the A. T. & T. Company?

A. That is so from 1928 on. 1928, was the date, the time when the Graybar Electric Company was sold to the employees of the Graybar Electric Company. It was formed in 1925, and prior to that time, that is, from '25 to

'28 all of the earnings, that is, the dividends paid by the Graybar Electric Company went entirely to the Western Electric Company.

Q. And through the Western Electric Company to the A. T. & T.?

A. It formed a part of the Western Electric's earnings.

Q. Well, now, was the Graybar Electric Company a profit sales organization?

A. Yes, sir.

Q. That is what it is mostly?

A. Yes, it is very profitable.

Q. Just why did the A. T. & T. or the Western Electric Company as a subsidiary of the A. T. & T. sell out this profitable branch of its business, the merchandising branch which is now conducted by the Graybar Company, why was it?

A. The reason for that is that it was felt that the business was so foreign to the business of the Western Electric Company, which is primarily for furnishing apparatus and equipment to Bell customers, that we didn't want to be subject to any possible criticism of having some part of Bell money invested in business which was no- connected with the Bell Companies.

[fol. 5604] Q. Now, how much is the preferred stock now outstanding?

A. 4,400,000.

Q. And it is seven per cent preferred?

A. Yes, sir.

Q. $280,000.00 is paid—well, at least seven per cent of 4,400,000?

A. Yes, sir. That is $308,000.00.

Q. $308,000.00?

A. Yes, sir.

Q. Comes in to the A. T. & T. Treasury through the operation of the Graybar Company at the present time?

A. Yes, sir, their regular dividends, preferred dividends.

Q. And they own a lien upon the property of $4,400,000.00 preferred stock?

A. Right.

Q. All right. Now, I think you explained it this morning, but possibly not—I wouldn't take too much time on

it, but as I make these figures of the property invested in the Western Electric Company for the purpose of sales to the Bell Telephone Company would be in 1925 $162,000,000 plus?

A. Isn't that sixteen million? Are you talking about investments or profits?

Q. No, I am talking about in order to get the investment by computing it from the profits. It would be 162 million in 1925, 161 million in 1926, 168 million in 1927, 161 million in 1928, 216 million in 1929, and 272 million in 1930. Now, there is a jump of almost a hundred million between 1928 and 1930. Is that explained by your explanation you gave this morning that you went out and bought additional property, and expanded?

A. That is practically the sole explanation, additional money was obtained from the stockholders for the purpose of increasing the plant capacity of the Western Electric Company.

[fol. 5605] Q. And that increased in capacity as between 1928 and 1930 particularly?

A. Yes, sir. Of course, these are averaging figures so that they don't reflect the full difference between the first and the end of the year.

Q. It is a picture of it?

A. Yes, sir.

Q. Now, in selling out the Graybar property, was that accounted for in the property afterwards owned by the Western Electric Company? They didn't give it away?

A. Oh, no. We sold it for practically the book value.

Q. Now, that brings just one more question and then I will stop. All of this matter that you have set up here for 1916 to 1930 is based on book value?

A. Yes, sir.

Q. Has there during that period of time ever been an actual appraisement of the property of the Western Electric Company for any purpose at all?

A. There has not been an appraisal as I think you are accustomed to have in telephone business, that is, that the telephone companies are accustomed to have.

Q. Well, have any of the public accountants ever appraised it?

A. There has been an appraisal made by the engineers of the Western Electric Company, the engineer of manu-

facture for the equipment of the factories and the plant engineer for the value of grounds, buildings and service equipment.

Q. Well, now, that was an actual appraisement from examination?

A. Yes, sir.

Q. As against a book value?

A. Yes, sir.

Q. How did the two come out as to being approximately near each other?

A. The appraisal less an estimate of existing depreciation of the property was slightly higher than the book [fol. 5606] figure of the property.

Q. So that there was no evidence given by that appraisal that the book value was too high?

A. No, sir.

Q. The evidence, as you gathered it from the appraisement and comparing the actual appraisal with the book value, that the book value was lower than the actual value?

A. Slightly lower.

Q. Slightly?

A. Yes, sir.

Q. Now, who made that appraisal?

A. The engineer of manufacture for machinery and equipment and the plant engineer for the other items, that is, ground and buildings and service equipment. They are employees of the Western Electric Company.

Q. Employees of the Western Electric?

A. Yes, sir.

Q. There was no independent outside appraisal?

A. No, sir.

Q. Now, have you ever made an estimate of it in reference to your income tax as to how much it is worth?

A. We have never been called upon in our income tax reports to furnish that information.

Q. Well, you do have to make an estimated value of it, whatever you call it, of the property, and give the approximate depreciation?

A. Yes, we—of course, the depreciation item enters into the cost of operations which are deducted in the income tax return.

Q. So that the net result of it is that in the last fourteen years there has been no actual appraisement of the

property, except by those who were connected with the Western Electric Company?

A. That is true.

Q. And that that appraisement was slightly higher than [fol. 5607] the book value?

A. Right.

Q. Now, let me ask you just one other question. Did your appraiser who made the appraisement know before they made the appraisement what the book value was and what their appraisement ought to show?

A. This is back in 1927, and I am trying to recollect. I don't know whether they knew it before or not. I never thought of it in that way, never inquired, but I can say this, that our intent was to get a real picture of the value of the property on this appraised basis.

Q. Well, let me ask just this one, and then I will try to not ask any more.

A. That is all right.

Q. Were they given the book value and told that they should segregate or allot or apportion the property to the different items which you wished to know, real estate, buildings and machinery and so forth, but that the total was to be approximately the book value?

A. No, they weren't told that.

Commissioner Geiger: All right.

By Mr. Herbert:

Q. In working up your cost of sales for these exhibits here did you use the same amount for depreciation that you used in your income tax return?

A. In the income tax return—or income tax returns have been finally examined and accepted by the Government only through 1921.

Q. But you have made returns each year?

A. Oh, yes, we made returns.

Q. Did you use the same depreciation in those returns as you have used in computing your total cost of sales for these exhibits, or do you know?

A. Yes, I do know. We used—the Federal Income Tax authorities have not accepted the full amount of depreciation that we have considered advisable and necessary to [fol. 5608] set up each year. They have accepted our methods but they have spread the cost over a longer pe-

riod than we have on a little different basis to some extent.

Q. That doesn't answer my question. I am not asking you what the Federal Government did. I am asking you if you yourselves used the same depreciation in developing up your total cost of sales for these exhibits that you have for your Federal income tax returns.

A. We have used those depreciation charges which we think are right, regardless of whether the Federal Government accepts them or not.

Q. Well, I will ask you once more if you used the same depreciation figures in the preparation of these total cost of sales columns in Exhibits 1 and 5 that you have in making your income tax return?

A. I thought I answered it before. Perhaps I don't understand it.

Commissioner Geiger: Well, you can answer it yes or no.

The Witness: He wants me to say yes or no?

Q. Not necessarily. You can amplify it, but yes or no would answer it.

A. We have not used the same amount.

Q. Now, is the depreciation that you have used here in the preparation of these total cost of sales figures higher or lower than those you used in making up your income tax returns?

A. They are higher as entering into the costs in this exhibit.

Q. Than these used——

A. Than those used in making up the Federal Income Tax.

Q. And I believe you have already testified that the Federal Government is taking your depreciation and spreading it over a longer period?

A. Yes.

[fol. 5609] Q. Now, one other thing. None of the exhibits reflect dollars or percentages allocated to the sales of material to the Ohio Bell Telephone Company, do they?

A. Well, Ohio Bell Telephone Company is one of the Associated Companies to whom we sell, and to that extent, they are involved in this statement.

Q. But the percentages might vary each way in different years?

A. Oh, they might, yes, but on the whole there isn't very much difference in the relative kinds of material that the Associated Companies buy from the Western Electric Company.

Q. Have you available figures in dollars of the sales of material to the Ohio Bell Telephone Company for the years 1916 to 1930, inclusive?

A. I have not them for 1916 to 1930. I have for 1922 to 1930.

Mr. Thompson: Ohio Bell wasn't formed until 1921.

Q. Could you read those into the record commencing in 1922?

A. 1922, $3,877,000.00. Now, I suggest that I save time by turning these figures over?

Commissioner Geiger: I would suggest if it would be satisfactory, that you submit those just the same as you submit the others.

Mr. Thompson: In the form of an exhibit marked Gregory Exhibit Number 7.

And thereupon the paper writing above referred to was offered, introduced and admitted in evidence, and is herewith submitted, marked Gregory Exhibit Number 7.

Q. You have no way of segregating out cost of sales or [fol. 5610] the allocation of investment to the production of material for the Ohio Bell Telephone Company exclusively?

A. I haven't made any such computation.

By Commissioner Geiger:

Q. Doesn't your Exhibit Number 1 contemplate that?

A. The question was, as I understood it, have I in any way segregated the investment and the profits and costs of sales on the Ohio Bell sales as distinguished from all sales to Bell customers.

By Commissioner Bricker:

Q. No reason that you know of why that should be taken out of the general average or why there would be an exception or variance in any way?

A. My judgment would be that the general average would be a fair way of treating that.

Q. You know of no factor that would in any way make that unsatisfactory?

A. No, sir, I do not.

Redirect examination.

By Mr. Thompson:

Q. I have a few questions to ask. With reference to the Graybar Company, Mr. Gregory, I understand that that company was formed as of the end or at the close of the year 1925 to take over certain business theretofore done by the Western Electric Company with non-Bell customers?

A. That is correct.

Q. It was formed and for the first two or three years its common stock was owned by the Western Electric Company?

A. It had only one class of stock.

Q. At that time?

A. And that was entirely owned by the Western Electric. [fol. 5611] Q. In 1928, the employees of the Graybar Company bought that common stock and there was then issued preferred stock which was acquired by the Western or one of its subsidiaries and which is held until it can be paid out by the Graybar Company?

A. By the employees of the Graybar Company.

Q. Right. Now, at the time the sale was made and continuously since, at the time the sale was made to Graybar as of the end of '25 and continuously since, the activities of the Graybar have nothing whatever to do with the sales of materials, telephone apparatus or supplies to Bell Associated Companies

A. That is correct.

Q. So that any profits accruing either to the Western Electric directly or indirectly through the Western Electric to the A. T. & T. from the Graybar business are not only non-operating profits, but they are non-Bell profits in the sense that we are using?

A. That is correct.

Q. That is, they arise from business not done with Bell Associated Companies?

A. That is correct.

Q. Now, on the division of investment——

Commissioner Geiger: Now, right there, did you ask him or did I ask him whether or not the Western Electric bought anything from the Graybar Company?

Mr. Thompson: Yes, he answered that.

Commissioner Geiger: All right, I beg your pardon.

Q. As I understand it, there are really no business relations back and forth between Graybar and Western at all except that occasionally in order to get better terms on purchases they buy jointly, each getting his fair proportion of the reduced price?

A. That is true, and at the present time there is less of [fol. 5612] that than there has ever been before. It is a gradual complete separation even in that respect.

Q. Now, just one more question on this division of such cost between Bell and non-Bell business. Suppose you had a given machine that in the course of a year made one thousand units of plant. I assume for the purpose of my question that those units would all cost the same to produce on that machine. It would be an over-all picture. 900 of those units were sold to Bell Companies and a hundred units were sold to non-Bell Companies. What is the fact as to whether or not when you come to allocate or apportion that investment between non-Bell and Bell business, it would be done on the basis of the number of units actually produced for each class of business?

A. That is correct.

Q. Do you know of any better or more correct way in which to make the apportionment or allocation than that?

A. No, sir, I think that is the only way.

Q. You were asked on your cross-examination something about an increase in prices by the Western to the Bell Associated Companies towards the end of 1930 and effective also in 1931?

A. Yes, sir.

Q. Has the business of the Western Electric proceeded far enough this year for you to be able to give an approximation as to what the earnings on investment of the Western Electric for the year 1931 on its Bell Associated Company business will be, including in that the result of these increases in prices to which you have referred?

A. I have made such an approximate estimate.

Q. What does it show, Mr. Gregory?

A. It shows that for the year 1931, that we are now ex-

[fol. 5613] pecting that we should get a return on our investment, perhaps it is more of a hope than it is an expectation, about equivalent to 1930, and 1930 was 4.3 per cent. on the investment.

Q. Mr. Gregory, your attention was called by Mr. Commissioner Geiger to the increase in the plant investment of the Western Electric Company, say approximately from '28 down to 1930, and into '31. I want to ask you a few questions relative to that situation. Prior to the time when these additions to plant were made, what was the condition of the business of the Western Electric Company as to operating its plants at capacity and the question of whether it was running more than one shift per day?

A. In the latter part or in the summer we might say, of 1928, there began to be an increasing demand for apparatus to be furnished to Bell Telephone Companies in order that they might meet the demand by the public for additional stations throughout the whole country, and to meet that demand, we prepared our plant facilities as completely and as quickly as we possibly could. At the end of 1929, it was evident, in the beginning of 1930, it was evident, that this plant capacity would not be needed for the immediate present, and the plants that we had for further plant expansion were discontinued for the present. We feel——

Q. I want to interject a question just there if I may, Mr. Gregory. During this period of time, what is the fact as to whether the Western Electric Company held itself out to the Bell Associated Companies not only to furnish them with the Telephone apparatus and materials, which they might desire to purchase from the company, but with rea- [fol. 5614] sonable promptness so that the demands of the public could be met?

A. It is the policy of the Western Electric Company not only to meet the demand on the part of the telephone companies, but to meet them as promptly as they possibly can.

Q. All right, now, for the purpose of ascertaining what the expected manufacturers within a given year will be, is there a budget system by which the Western Electric obtain information and data from the Associated Companies as to their probable demands covering the next twelve months' period?

A. Yes, sir.

Q. And is that budget also considered on the basis of five year probable demands?

A. Budget of the telephone company is on a five year plan, yes, sir.

Q. All right. Now, when these additional buildings were constructed or enlargements were made to your already existing plants, I will ask you to state to the Commission whether you took into consideration not only the then activity of the Western Electric Company and the apparent necessity for relieving congestion, but also the estimates which have been furnished to you by the Bell Associated Companies as to their probable busines in the oncoming twelve months period?

A. It was because of the information that we have received from the telephone companies as to their probable requirements not only for the succeeding year, but for the next few years ahead that we found it necessary to make these estensive plant expansions—take on these extensive plant activities.

Q. I will ask you to state to the Commission whether in the judgment of the executive officers of the Western Electric Company these additions to and extensions of plant when made were reasonably necessary?

A. They were.

[fol. 5615] Q. Now, did you find out when the depression came on that the estimated demands of the Associated Bell Companies would not have to be met by the Western Electric Company?

A. Yes, sir.

Q. Have you any opinion as to whether this condition in the telephone situation is one where you have a permanent excess of plant in the Western Electric?

A. I have.

Q. I wish you would state to the Commission what that is.

A. My opinion is that we have not reached the end of the telephone growth in this country, that we have not reached the saturation point, and that there will be after a temporary hiatus——

Commissioner Bricker: How temporary?

The Witness: I wish I could answer that. There will be a resumption of the extension of the telephone facilities throughout the United States.

Q. Do I understand then in your opinion, Mr. Gregory, that the present excess plant of the Western Electric, an

excess only in the sense that I have indicated, is not likely to continue to be excess for any very long time in the future, is that your opinion?

A. Well, I don't know how long. I feel confident that sometime all of that plant will be needed and more.

Q. But you refuse to predict an exact date?

A. I am not a prophet. Prophets are not in order these days.

By Commissioner Geiger:

Q. Might I ask what portion of this additional equipment, if any, was required to make the new receiving device called, I believe, the Continental Hand phone?

A. The hand telephone?

[fol. 5616] Q. Yes.

A. I don't know the answer to that question.

Q. Well, the Western Electric makes it?

A. Oh, yes, yes, sir. Just how much additional investment is due to the fact that we have taken on that manufacture—we don't try to ascertain the amount of investment for any particular line of apparatus. It simply adds to the total that we have to deliver to the telephone company.

Q. Have you or have you not appeared before other commissions on this particular point in reference to the activities of the Western Electric Company and the Bell Telephone Company?

A. This is my first appearance on the witness stand.

* * * * * * *

[fol. 5617] Friday Morning Session

April 17, 1931.

Charles A. Heiss, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Thompson:

Q. Please state your name.

A. Charles A. Heiss.

Q. Where do you reside, Mr. Heiss?

A. East Orange, New Jersey.

Q. What official connection, if any, do you have at this time with the American Telephone & Telegraph Company?

A. Comptroller.

Q. How long have you been comptroller of that company?

A. Continuously since September, 1920.

Q. Prior to that time were you employed by the same company, and if so, for what period of time and in what capacities?

A. Yes, since May, 1913, when I entered the employment of the company as an accountant. I became assistant chief accountant in 1915, chief accountant in 1917, assistant comptroller in 1919 and continued in the latter capacity until I was made comptroller in September, 1920.

Q. Before your connection with the American Telephone & Telegraph Company what experience had you had in accounting?

A. I entered the employment of the Interstate Commerce Commission in 1907, spent approximately two years in its statistical department, was then transferred as assistant to Professor Henry C. Adams at the University of Michigan, [fol. 5618] who was in charge of statistics and accounts for the Commission and also in charge of the development of the uniform system of accounts for railroads, telephone companies and other utilities, and I assisted in that work. I resigned from the Commission in August, 1912, to work for Professor Adams in the state of Michigan in an investigation involving the two-cent fare on railroads in Michigan, returning to the Interstate Commerce Commission as an examiner of accounts in December, 1912, and continued in that work until May, 1913, when I entered the employ of the American Telephone & Telegraph Company.

Q. Are you a graduate of any University or professional schools, Mr. Heiss?

A. Graduate of the Bloomsburg State Normal School, Bloomsburg, Pennsylvania, College of Political Sciences of George Washington University, and hold a Master of Arts Degree from the University of Michigan.

Q. Is the American Telephone & Telegraph Company to which you have referred in your testimony the same company which owns substantially all of the common stock of the Ohio Bell Telephone Company and a little more than 98 per cent. of the common stock of the Western Electric Company?

A. It is.

Q. In all the questions which I shall put to you in your testimony from this point on of your testimony, I am referring to the years from 1923 to 1930, both inclusive, unless

my question specifically indicates the contrary. During that period of time what is the fact as to whether the books and records of the American Telephone & Telegraph Company, by that I refer to the accounting records and not to the purely corporate records, have been continuously kept under your direct supervision and control?

A. Yes.

[fol. 5619] Q. What is the fact as to whether such books and records were kept in accordance with the uniform system of accounts prescribed by the Interstate Commerce Commission?

A. They were so kept.

Q. Did the American Telephone & Telegraph Company during that period of time, make reports annually to the Interstate Commerce Commission on the forms prescribed by the Commission which were sworn to by you as comptroller and filed as public records in the office of the Commission in Washington?

A. Yes.

Mr. Thompson: I have here certified copies of the reports to which Mr. Heiss has just referred for the years 1923 to 1930, both inclusive, and I offer these exhibits as a part of the testimony of Mr. Heiss. I may say in passing that Mr. Heiss' subsequent exhibit No. 10, which shows an estimate of cost of rendering services under the license contract of the American Company for these years, is based in a large part on these official reports made by the company to the Interstate Commerce Commission and certain reconciliations which he has made of them and which will be shown on Exhibits to be later introduced.

And thereupon the certified copies of reports above offered were introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and are herewith submitted, marked Heiss Exhibits Nos. 1 to 8, inclusive.

Q. You may state to the Commission whether the data and information appearing in these several exhibits identi- [fol. 5620] fied as Heiss exhibits 1 to 8, both inclusive, correctly reflect the entries on the books of the American Telephone & Telegraph Company which they purport to show?

A. They do.

Q. Have you, in preparing an exhibit which will be shortly identified and offered in evidence, showing the estimated cost

to the American Telephone & Telegraph Company of rendering the services under the license contract, used in part the data contained in these annual reports of the American Company which have been just identified?

A. Yes.

Q. I shall not at this time, Mr. Heiss, go into the reconciliations because they will be introduced later, so I will pass directly to the questions involved with Heiss Exhibit No. 9 and 10. Is this instrument identified as Heiss Exhibit No. 9 the present license contract between the American Telephone & Telegraph Company and the Ohio Bell Telephone Company dated July 24, 1930?

A. It is.

Q. Are you familiar in a general way, not only with the terms of this agreement, but with the terms of the earlier license contract between the Ohio Bell Telephone Company and the American Company already introduced in evidence in this case?

A. I am.

Q. And are you also familiar with the services actually rendered under these license agreements to the Ohio Bell by the American Company?

A. I am.

Q. During the period of time which I have inquired about, are you familiar with the various activities which were carried on by the American Telephone & Telegraph Company?

A. Yes.

Q. Please state in a general way what the activities consisted of and if there was any division within the organiza- [fol. 5621] tion for departmental purposes, please state what that division was.

A. During the period under consideration, that is, '23 to '30, the American Company carried on two major activities and a third but lesser activity.

The company operated its long distance lines which interconnect the 24 operating or licensee companies doing business throughout the United States. This particular activity has its own complete organization, officers and operating and accounting system, and this department is as self-contained as an operating company. While records of its operations are separately maintained, nevertheless at the end of accounting periods they are necessarily combined with the accounts of the American Company of which this depart-

ment, the long lines, is a part, for the purpose of reporting to the Interstate Commerce Commission and other public bodies as well as to our stockholders.

Now the second major activity of the American Company is the rendering of services under the license contracts. This activity engages practically the entire attention of the American Company other than its long lines operating activities.

A third phase of the work of the company, secondary in character, consists in its ownership of the securities, stocks and some few bonds on the licensee or system companies. Much of this latter phase of activity and its related financial activities tie in very definitely to the rendition of the license contract services. In fact, they are a part of those services.

Q. If I understand correctly, the long lines department, [fol. 5622] while of course, a part of the American Telephone & Telegraph Company, there being no distinct entity into which it is organized, is by reason of subsidiary records kept from an accounting standpoint, so that all of the operations of that department are separately reflected and separately recorded and maybe segregated through these subsidiary records from the other activities of the American Company, is that correct?

A. Yes. During the period in question there has been no fundamental change in the character of our accounting system. The accounts of the American Company are kept for the company as a whole, I said, in order that we may report to our stockholders, and to regulatory bodies and also have available the results of the business.

The long lines department maintains for itself a complete accounting system and these records are subsidiary records in the general accounts of the American Company. These subsidiary accounts are kept separately, having been built up directly from the various and numerous underlying records which enter into any system of accounts, and they show the complete results of the operations of the long lines department.

For other activities of the American Company combined, namely, those pertaining to the rendition of the services under the license contracts and the ownership of securities, another set of subsidiary records or accounts are kept to record these combined activities. We do not, and I don't

see how it would be possible to do so, keep subsidiary records showing the costs of rendering services under the license contracts separately from the costs incurred in holding securities and the related financial activities, because [fol. 5623] the two are very definitely interrelated.

Q. Is the work of the American Company organized into various departments, Mr. Heiss?

A. It is.

Q. What are they?

A. The work is organized under the following functions of departments, that is, in addition to the long lines department which I have described: Development and Research, Operation and Engineering, Operation General, Personnel, Information, Public Relations, Legal, Comptroller, Treasurer, Secretary, General Service Bureau, and General Administration.

Q. What is the fact as to whether as a part of your bookkeeping and accounting system you keep subsidiary records which show the expenses during this period I have inquired about for these several departments of functions of the business of the American Company?

A. Under our system of accounts each voucher or bill receives two classifications, first the classification required by the uniform system of accounts of the Interstate Commerce Commission, and second a departmental classification whereby the items may be assembled under the various departments just named. The Interstate Commerce Commission classification doesn't permit us to assemble the items in a way that we can use them for our administrative purposes. However, in assembling these items under the various departments named, no attempt is made to show separately costs pertaining to the license contract activities as contrasted with costs arising in respect of investments and the related financial activities.

Q. I hand you now, Mr. Heiss, an instrument identified as Heiss Exhibit No. 10, sheets 1 and 2, which set forth an [fol. 5624] estimate of the costs incurred by the American Telephone & Telegraph Company in rendering the license contract services for the year 1923 to 1930, both inclusive, and also the amounts received for license contract services during the same period. Was this exhibit prepared under your direct supervision?

A. Yes.

Q. From what sources were the data and information appearing in this exhibit prepared?

A. From the accounts, departmental and other, of the company, including the same basic data which is classified under the uniform system of accounts and appears in the I. C. C. reports.

Q. Are there included in this Exhibit 10 any revenues or expenses whatever of the long lines department of the American Telephone & Telegraph Company?

A. No. However, the long lines department is charged for services on the same basis as the licensee companies. I have said tha- the long lines is separately organized and has separate management.

Q. May I interrupt just a minute there before you finish completely your answer? Does that appear under the amounts received for license contract services on this exhibit for each of the years? For instance, in 1923, the amount charged against the long lines department for license services was $1,592,181?

A. The amount charged the long lines appears in the third column of figures, the fourth item from the bottom of the page, $1,592,181.

Q. Now, proceed, Mr. Heiss, with your explanation whether any of the amount is included in this exhibit?

A. That department, the long lines, is treated as a licensee company and accordingly the expenses reported in [fol. 5625] this statement do and they must include the costs incurred by the American Company in furnishing services to this department. In other words, the expenses are in and the revenues are also shown.

Q. And what you mean by "the expenses are in" are the expenses of performing the services under the license contract for the long lines and other associated companies?

A. Yes, sir.

Q. But that none of the operating expenses or revenues of the long lines other than you have explained are included in this statement?

A. They are not included.

Q. In this Exhibit No. 10 I intend to take up with you each of these sub-divisions for the year 1923. I will later ask you whether the explanations which you make and the testimony which you give with respect to the year 1923 are

equally applicable to the other years. I want to begin, however, with the three columns entitled, "Direct Costs", "Indirect Costs", and "Total" for the year 1923, and I want you to explain how you have arrived at the figures in these three columns and what is included within those figures.

A. As comptroller I am responsible for the accounts of the American Company and all expenditures of the company come under my observation and final supervision before they are entered into the accounts. I am also familiar with the work of the several departments.

Now, this exhibit is primarily concerned in showing an estimate of the costs incurred in rendering the license contract services. There are obviously certain items in arriving at such costs which are directly attributable to the rendition of license contract services and these directly at- [fol. 5626] tributable costs and no others have been included in the column entitled, "Direct Costs".

Q. In making those figures and estimates, did you proceed, Mr. Heiss, not only from your own knowledge, but after consultation with the head of these various departments, Development and Research, Operation and Engineering, and so on?

A. In ascertaining the direct costs in the first column for each year a careful review of the expenditures was made with representatives of each department for the purpose of supplementing my personal knowledge of the functions of these departments.

The column "Direct Costs" contains only such actual direct costs, including taxes, as are attributable to license contract services. The figures include no costs for maintaining the company's general corporate organization, which organization is obviously essential to and an integral part of the company's facilities necessary to rendering license contract services. They also do not include any costs incident to owning the permanent investments in securities and related financial activities. I repeat again, the column "Direct Costs" contains only costs directly attributable to the rendition of license contract services.

Q. Now, explain the column "Indirect Costs"?

A. The column "Indirect Costs" contains expenditures incurred by the several functions or departments in connection with the maintenance of a general corporate organization and in addition costs incurred incident to holding and handling the company's permanent investments in secur-

ities of system companies, costs of raising new capital [fol. 5627] funds by issues of stock, costs incurred for maintaining the records of the company's capital stock held by the public, the costs incident to the related stock transfers and the costs incident to the payment of the quarterly dividends and all related financial costs and taxes.

Now the American Company, after excluding its long lines activities, obviously exists primarily for the performance of what I have described as its major activity, namely, the rendition of services to the companies having license contracts, and to this activity should be assigned its proportionate share of the cost of maintaining the general corporate structure necessary to such existence. There should likewise be set forth under license contract costs as definitely incurred in that field a reasonable part or portion of the expenditures incurred by the company in its various financial activities which materially enhance the scope and quality of the services which we render under the license contract. These financial activities of the company have a distinctly joint character or application. That is, they are definitely related, in fact indespensable to the complete performance of license contract services, and from every standpoint they materially supplement and improve the character and the scope of the services which we render under those contracts. Any statement of costs incurred in rendering those license contract services must therefore, in my opinion, include a substantial part of the costs of the several financial activities just enumerated, as well as its pro rate part of the costs of maintaining the general corporate organization of the company.

On this basis, the amounts now included under "Direct [fol. 5628] Costs", are not all of the costs incurred in the rendering of license contract services, and as I have done in Exhibit 10, a part of the costs there shown of "Indirect Costs" should be added to the "Direct Costs" to give the true picture of the total cost for rendering license contract services. That adjustment was made, I may say, in the lower half of the sheet.

Q. Do you mean by that, Mr. Heiss, that from these indirect costs ascertained by you for each of the years in question you have deducted an estimated amount for corporate expenses attributable to the ownership of system securities and related expenses?

A. I have, and I will explain my basis for that.

Q. I wish you would do that, please.

A. Now, on the other hand, some part of the costs of these various financial undertakings may reasonably be considered as incurred in a strictly holding company capacity. On this assumption the indirect costs, as set forth in the statement, including as they do costs of a joint character, must be apportioned between those which should be assigned as a part of the cost of performing license contract services, and those, on the other hand, which should be excluded because they are a cost of conducting financial activities in the holding company capacity. Such apportionment, because of the inter-related character of the activities, must of necessity be based on estimate and on reason judgment, and in the figures which follow in this statement an allocation has been made on that basis.

Q. Having arrived at these indirect costs you then deducted from them the estimated amount for corporate [fol. 5629] expenses attributable to ownership of system securities and the like which is shown on Exhibit 10 under the year 1923 as a million dollars, is that right?

A. I have.

Q. Does this amount of a million dollars which you have deducted from the indirect expenses, represent, in your judgment and opinion, a fair and just amount for the cost of the activities of that company for the year 1923 not attributable to rendering the license contract services after you have excluded the long lines expenses?

A. Yes, based on my knowledge of the business of the American Company, this amount of one million dollars for the year 1923 is fully adequate to cover these non-license contract activities and even somewhat larger than the facts warrant. We have, of course, in addition excluded from the statement of costs the expense incident to any other non-telephone activities.

Q. Now, what is your "Total" column, Mr. Heiss?

A. The column "Total" on Exhibit 10 is the sum of the amounts appearing in the column "Direct Costs" and the column "Indirect Costs" and after deducting the amount of corporate expenses estimated as attributable to the ownership of system securities and to expenses related to financial activities, which in the year 1923 was $1,000,000, and a different amount for years following, represents the estimated costs incurred by the American Company for its

major activity other than long lines service, namely, that of rendering services under the license contract.

Q. Referring once more to this deduction from indirect costs of a million dollars, because of the so-called corporate activities, in your opinion, can any deduction on account of [fol. 5630] corporate expenses be made from the column "Direct Costs"?

A. No, for the reason that the column "Direct Costs", as I have already explained, includes only those items of cost directly attributable to rendering license contract services.

Q. On exhibit 10 there appears in the left hand corner of the exhibit in the first column, the various departments of the American Company to which you have already testified, commencing with the Department of Development and Research and then Operation and Engineering and so forth. I wish you would explain to the Commission somewhat in detail, although as concisely as possible, the activities which have been carried on by these various departments of the American company during the years referred to on this exhibit?

A. In order that I may make the statement as concise as possible, I assume there is no objection to my reading certain memorandum containing the description of these departments?

Q. I think that is all right.

A. The first department mentioned is the department of Development and Research. This department consists at present of 575 people, 322 of whom are engineers, practically all graduates in engineering or science of well known universities and colleges, many of those having had experience in the telephone operating field, while the balance are engineering and clerical assistants, and so on. This department is responsible for the development of new and improved physical devices, methods and arrangements, such as transmission apparatus and systems, switching apparatus and systems, means and methods of reducing interference from power systems, materials and apparatus for plant construction.

[fol. 5631] The program of Development and Research is intended to meet new and changed field conditions, to reduce over-all cost elements, to improve service, to take advantage of new developments in the electrical art, of the rapidly

growing fund of new knowledge covering new or old materials, new manufacturing methods and processes, etc.

This department assigns to the Bell Telephone Laboratories work that in general requires laboratory facilities and facilities for carrying on design for manufacture. The department follows the work of the laboratories in a consulting capacity and arranges for field trials of apparatus or systems developed and considered for standardization. Cases frequently arise, not primarily involving the development of apparatus and systems where associated companies meet some peculiar condition requiring special and expert study, such as new condition of cable sheath corrosion or a new power line interference condition. This department sends engineers into the field to study such conditions on the ground and to advise the licensee company. General engineering and scientific discoveries in this country and abroad are carefully followed, and where promising a possibility of improvement in the telephone service and plant, the new ideas are tested and the results made available to the Bell system. A technical representative is stationed in Europe for the purpose of keeping in touch with developments abroad which may be of value to operating companies in the Bell system.

Q. Mr. Heiss, in Exhibit 10 I notice that $2,841,988 has been charged as an expense of rendering license contract [fol. 5632] services for the year 1923 on account of this Department of Development and Research, and that that is all in the direct column, nothing in the indirect column. What is the fact as to whether the activities of this department, Development and Research, are devoted practically exclusively to meeting these problems of development and research of the Bell associated or licensee companies?

A. It is a fact that practically the entire work of this department is devoted to the service of research and development for the licensee companies.

Q. Now, will you take up the Department of Operation and Engineering, if you have finished with Development and Research.

A. May I make just one further comment regarding the Department of Development and Research, that the amount included here in Exhibit 10 includes the American Company's portion of the cost of the expense incurred by the Bell Telephone laboratories which, of course, were not in existence in 1923, but a separate research organization was

maintained in the Western Electric Company and certain charges were transferred to the American Company.

Q. And that department was, I assume again, for the purpose of doing laboratory work on the general problems of development and research, arising out of the business of these Bell associated companies?

A. That is the fact, and all the work was devoted to fundamental research development in the telephone field.

Q. Now, if you will proceed with the Department of Operation and Engineering.

A. The Department of Operation and Engineering had on December 31, 1930, 757 employees.

It furnishes the licensee companies advice and assistance [fol. 5633] in connection with general construction programs and coordinates these programs and the manufacturing facilities of the Western Electric Company. It furnishes advice and assistance on all phases of the engineering, construction, maintenance and operation of the plant including traffic operation and the commercial problems of the business.

The department advises the companies with reference to the most effective methods of applying to the telephone system the results of the work of the Department of Development and Research.

It furnishes consulting engineering advice on unusual or difficult or exceptionally large engineering problems. The engineers of the companies call upon the General Engineering Department for specific advice and assistance whenever, in their opinion, they require it.

It determines the most effective engineering methods for the Bell System. It studies and compares results and makes recommendations to the companies on the basis of such data. It recommends improvements in the service, economies and better arrangements of working organizations to meet the varying conditions in the field. This involves the issuance of numerous specifications, handbooks and circular letters.

In plant work, the types of construction most economical under different conditions and giving the best balance between investment and maintenance costs are developed. Maintenance problems for each type of plant are carefully studies and the most effective methods determined and recommended. By continuous study of results new methods are from time to time suggested which make for improved

[fol. 5634] service, greater economies or better arrangement of field organizations to meet local conditions.

In traffic work, studies are continuously made of the best method of handling the various classes of service, of the most effective and economical use of forces and of the best methods of giving efficient service to meet the needs of the public. Specialized forces handle the problems of local traffic and of toll traffic. Studies are continuously under way to develop the type, quantity and arrangement of Central Office Equipment to render the best and most economical service. New and improved systems of operating are being developed constantly. Traffic results are analyzed and compared. Speed and quality of service are emphasized. This involves consideration of best management technique as well as the operating technique.

In commercial work, studies are made to assist in development rate systems which through equitable apportionments of charges will encourage the widest practicable use of telephone services by the public. The companies are assisted in the making of commercial surveys to develop the telephone market and to determine the probable extent and direction of the growth of telephone service. Study and analysis is made of commercial, administrative and management problems, also of forms of organization and equipment of business offices and practices for the most effective administration of business office work.

Directory problems are analyzed involving studies of methods of compilation, printing and delivery, scope and frequency of issue of directories, and determination of the [fol. 5635] possibility of increasing directory advertising receipts, etc.

Insurance problems are studied and suggestions made as to standard types of buildings to promote safety and reduce fire risk and standards for inspection and maintenance.

These are only some of the activities of that department which afforded you a general picture.

Q. Mr. Heiss, I notice in Exhibit 10 under the column, "Direct Costs" for the year 1923 you have included as a charge for rendering services under the license contract $2,550,709 on account of the department of Operating and Engineering and that there has been no sum included on account of indirect costs for that department. What is the fact as to whether practically the entire activities of the

Department of Operation and Engineering of the American Company were at that time devoted to work directly attributable to license contract services?

A. The Operation and Engineering Department exists for the service of licensee companies under the contract. There were in later years certain small items of work done by the department, the costs of which we have entirely excluded from this statement.

Q. But, generally speaking, and with the exception of those small items which have been excluded from this computation, the development and research and the operation and engineering departments exist, as I understand you, solely for the purpose of rendering services under this license contract to the associated companies?

A. They exist for no other purpose.

Q. Now, will you please take up the Department of Oper- [fol. 5636] ation-General and explain to the Commission the activities of that department?

A. The Department of Operation-General is a coordinating department, a department which coordinates operating activities.

The responsibilities of this unit include the following:

Advice and assistance to the Associated Companies on matters of business and commercial policy, including the policies to be followed in regard to new business projects, new types of telephone service and wider usefulness of existing services.

Advice in matters pertaining to negotiations of purchases and sales of operating properties.

Supervision and recommendations with reference to contract relations with manufacturing companies, including the Western Electric Company, also relations between the Associated Companies and the Long Lines Department, and broadly with matters that arise in connection with the general administration of the License Contract.

Advice and assistance to the Associated Companies in connection with general agreements with railroads, electric light and power companies, oil and pipe line and telegraph companies, governmental departments, and similar general contracts and arrangements.

Supervision of agreements and arrangements arising out of ownership of patents by the American Telephone and Telegraph Company.

All of these activities, with the exception of that last referred to are carried on solely in behalf of and for the benefit of the licensee companies.

[fol. 5637] Q. What was the last one, Mr. Heiss?

A. The one to which I specifically referred was the supervision of agreements and arrangements arising out of the ownership of patents by the American Company.

Q. And these activities being carried on, as you say, primarily and directly for the benefit of the Licensee Companies, what is the fact, Mr. Heiss, as to whether for the year 1923 you have charged as a portion of the direct costs of rendering the license services, the expenses of this department, Operation-General?

A. The expenses of the Department Operation-General are very largely directly attributable to the license contract activities.

Now, with respect to the activities arising out of the ownership of patents, there are certain patents owned or controlled by the American Company which have application outside of the Bell System. Now, all work in connection with such applications is considered as non-telephone and has been excluded in arriving at the figures in this exhibit.

Q. So that the costs in connection with the group to which you have just referred to and which you have characterized as non-telephone activities have not found their way at all into this bill of estimated costs for rendering license contract services; is that correct?

A. They have not, neither in the direct nor in the indirect.

Q. Now, will you take the Personnel Department and explain briefly what its functions and activities have been?

A. Before going to the Personnel Department I may add further that any work that may have been done in licensing broadcasting stations has also been excluded as unrelated, [fol. 5638] either directly or indirectly.

The functions of the Personnel Department, and this department has 41 employees at the present time, may be summarized as assistance to and cooperation with licensee companies in adopting and maintaining measures and methods that will:

Assure management's consideration of employee point of view in all matters affecting employee interests and encourage employees to discuss with management their individual and group relations.

Enlist interest and develop employee understanding of their responsibilities to the service and the public.

Provide the training necessary to bring out the best in each individual and encourage the use of educational opportunities.

Maintain cordial relations between the Bell System and schools and colleges and coordinate the college employment program of the Associated Companies.

Develop voluntary thrift habits among employees which will tend to strengthen their economic security and promote good citizenship.

Assure sound practices in matters relating to benefit payments, emergency loans, and retirement pensions.

Develop sound practices in Company medical work and promote good health habits among employees.

This department keeps informed of the trend in industrial relations including major developments in other industries and prepared statistical and other studies of experience.

It administers the Benefit and Medical work of the American Telephone and Telegraph Company.

[fol. 5639] It also maintains contact with the various associations of the connecting companies and advises with the Licensee Companies in their relations with connecting companies, all in the interest of the best national telephone service.

Q. At present, who is the head of this last department to which you have just referred as Personnel?

A. Mr. E. F. Carter.

Q. Until just a short time ago, the president of the Ohio Bell Telephone Company?

A. Yes.

Q. On Exhibit 10 a part of the costs of this department are charged under the direct column and a part under indirect; is that correct?

A. That is correct. A small part is included under indirect, and that comes about by the fact that the work of this department, particularly its benefit and medical section, has to do with both the employees that work on license contract activities and those that are concerned with the activities, the costs of which are included in the column "Indirect Costs".

Q. Now, will you state briefly the activities and the func-

tions of the Information Department of the American Telephone & Telegraph Company appearing on Exhibit 10?

A. The Information Department of the American Company had on December 31, last year, 49 employees. It carries on field contacts, special studies in the interest of the Licensee Companies, publicity and advertising. The field contacts aim to enlist interest and develop employee understanding of their public relations responsibilities to the service to the public, just as in the Personnel Department the effort was to have employees have an understanding of the personnel relations, problems that enter into the con- [fol. 5640] duct of a business and its relations to the public. The publicity consists of the Bell System Quarterly and the Technical Journal, many pamphlets, some moving pictures, distribution of news items, etc., for the field and also advice to the field on these matters and also on the conduct of Company magazines. This Department also gives out news concerning the American Company and conducts the headquarters bulletin. These activities of the American Telephone & Telegraph Company account for but a small proportion of the effort of the publicity division. Advertising deals with the preparation and placing of all Bell System advertising in national magazines and periodicals, and that is by far the largest activity of this department.

Q. Does the same explanation which you have made for the division of the costs of the Personnel Department as between direct and indirect apply to the division which you have made of the costs of this department?

A. Yes. As I just mentioned regarding advertising, this advertising activity is for the benefit of the operating companies and only in very small part can be said to pertain to the activities for which costs have been included in the column "Indirect Costs". Now, that accounts for the amount appearing in the column "Indirect Costs."

Q. Now, take the Department of Public Relations and describe its activities and functions.

A. The Department of Public Relations represents companies of the system before the Federal Government, also in work with national trade and industrial organizations. This representation is given both on matters which are of general interest to companies and on matters which, while [fol. 5641] affecting only some particular company, may sooner or later benefit others. For example, this department frequently represents the Licensee Companies before

the Interstate Commerce Commission in proceedings to obtain Federal approval of purchases and sales of property under the Graham Act. This department also represents the companies which desire permits from the Federal Government for any purpose, for example to lay cables across waterways which serve as Federal boundaries.

It also develops methods of survey and study of the telephone needs of the various different kinds of business and considers how best to meet these needs. This work is leading more and more to studies which carry over from one branch of industry to another in order to determine how telephone service can be best applied in facilitating communication between commercial undertakings which are interdependent in the general industrial process, as, for example, in the cheaper and more efficient marketing of products where the materials are created by one kind of industry and manufacture or distribution is in the hands of other industries. For example, it considers such matters as the best type of telephone service for farmers and the best and most effective distribution of their product. And in this respect it cooperates with the National associations representing various lines of industry.

Q. What is the fact as to whether you have charged in this bill of estimated costs all of the expenses of the Public Relations Department to direct costs for each of the years?

A. For the year 1923 this department did not exist and there are no costs for that year. Such work as was done [fol. 5642] was done by the other functions.

Q. But from 1924 on——

A. From '24 on all of this type of work is in the interest of the Licensee Companies and we have included the expense in the column "Direct Costs".

Q. All right. Now describe the Legal Department of the American Telephone & Telegraph Company and what its functions are.

A. The Legal Department has 66 employees and furnishes general, legal and patent services to the Licensee Companies. This includes advice requested from the companies on any legal questions arising in connection with their business, the legal work in connection with obtaining the large number of patents owned and controlled by the Bell System, and the protection of the companies in the use thereof.

The American Company assumes the entire burden of

patent litigation and production on new developments and the responsibility for handling claims for infringement, the collection, analysis and distribution of information which is considered of interest or having a value to the legal Departments of the Companies. This latter work includes such matters as the early compilation of Commission decisions for distribution to the companies, so that the companies may be kept informed as to latest developments; also various compilations of court decisions and statutes affecting the telephone industry.

In addition the Legal Department does the necessary work presented in the handling of securities, ownership of securities and the issue and sale of stocks and bonds.

Q. Now, Mr. Heiss, have you divided in this bill of costs the expenses of the Legal Department between direct and indirect costs?

A. We have carefully examined the expenses of the [fol. 5643] Legal Department year by year and have set out in the column "Direct Costs" those which are directly attributable to the license contract activities, and in the column "Indirect Costs" we have included the remainder.

Q. Now, please state the functions of your own department, that of the Comptroller.

A. The Comptroller's Department at present has about 350 employees and performs, in behalf of the Associated Companies the research and development work which is required in respect of the accounting and statistical and certain financial functions of the business. This includes—

Standardization of the accounting system.

The fact that the Interstate Commerce Commission has prescribed a Uniform System of Accounts for telephone companies does not obviate the necessity of continuous study of the application of the accounting system of the business. New developments arise which require additional accounts or sub-accounts and questions of proper interpretation of existing accounting definitions and rulings are continually being raised by the companies. The department acts as a clearing house for all such questions and undertakes to confer with the Interstate Commerce Commission or its Bureau of Accounts on questions where the need for such consultation arises.

The development and maintenance of efficient accounting methods and clerical procedures.

Because accounting is more or less involved in practically

every phase of the business, it frequently devolves upon the Accounting Department to prepare with the cooperation of interested departments instructions covering clerical pro- [fol. 5644] cedures in all departments. These instructions embrace such matters as the Motor Vehicle Routine, the Estimate Routine, Routine Covering the Handling and Disbursement of Materials and Supplies, etc.

The enormous volume of billing for the millions of subscribers' regular accounts and the hundred of millions of toll calls make it important that all details of such work be handled with the greatest economy consistent with correct billing practices. The department keeps in touch with the latest developments in mechanical accounting appliances, makes exhaustive tests of these to adapt them to telephone work and recommends the results of its studies to the companies. Standardized forms for reporting, recording and distributing accounting information are devised and recommended for general use.

Advice on methods of statistical analysis and presentation.

Studies of general business conditions are made and assistance is given to the local statistical departments to enable them to make proper analysis of local business conditions. The results of general economic research which is of value to the companies are made available to them. Actuarial studies are made involving such subjects as plant retirements, pension plans, insurance, etc., to the end that the companies' practices may be established on sound lines.

Advice and assistance on tax accounting questions and tax returns to Federal and other authorities.

Auditing the accounts of the Licensee Companies and furnishing certificates of audit which obviate the necessity [fol. 5645] of employing outside accountants and auditors, and related expense.

Q. I understand that through the accountants of your department you audit annually the books of each of the Bell Associated Companies who have this license contract?

A. Make a very thorough audit, give them a certificate. The audit work is done by high grade accounting men and the audit goes far beyond the usual audit made by an outside accounting firm in that it goes to the methods and practices and the form of records kept.

Q. Are there any other functions or activities which are performed by your department?

A. Just one or two more.

Development of forms and methods for the preparation of provisional estimates and forecasts of the results of future operations.

We assist the companies in the development of thrift plans to enable employees to provide for the future, in such matters as payroll deductions for purchases of stock, for payment of life insurance premiums, savings bank accounts and so forth.

And then we do the normal accounting and bookkeeping activities presented to any accounting department.

In addition to that we study the financial needs of the companies, and we render advice and assistance in providing the funds which are constantly required to take care of the growth of the business and actually arrange with the companies for meeting these needs through demand loans, open accounts, stock issues and so on.

Q. You have included, Mr. Heiss, in this estimate of costs [fol. 5646] under the columns "Direct" and "Indirect" the expenses of the Comptroller's Department. Will you state to the Commission why a certain portion of that expense has been included under the direct and a certain portion under the indirect costs?

A. We have carefully examined the work and expenses year by year, set apart in the column "Direct Costs" all of the costs of the work considered directly attributable to the licensee contract, and have set apart in the column "Indirect Costs" that which pertains to the other functions or activities of the company which I have earlier enumerated as embraced in the column, indirect activities.

Q. Now, if you will, please take the Treasurer's Department and give us a very brief statement as to its activities.

A. The Treasurer's Department has at present about 350 employees, and furnishes advice and assistance in cooperation with the Accounting Department on matters of finance.

It acts as custodian of company cash and disburses funds in payment of company expenditures.

It keeps invested on the best basis possible and in liquid form the funds kept on hand for the Licensee Companies so that these may be readily available when required by the Companies in the form of temporary financing and at times and in amounts to suit the current needs of the companies until permanent financing is arranged.

It furnishes advice to the Licensee Company relative to treasury methods and procedures.

It handles matters pertaining to capital stock issues, dividend payments, stock transfers and relations with stockholders.

[fol. 5647] It has custodianship of all securities—stocks, bonds and notes—owned by the American Company and collects dividends and interest received thereon.

It furnishes assistance in marketing securities, such as First Mortgage Bonds, etc.

The same course of apportioning expenses was followed in respect of that department as was followed for the Comptroller's Department. You will note, however, that the column "Direct Costs" contains less than 10 per cent. of the total costs of the Treasury Department for the year 1923. That same general relationship between the direct and indirect cost column carries through the exhibit, the reason for that being that in reviewing the activities of that department under our plan of procedure the number of activities assignable to direct costs were few, while the work properly classified under indirect activities was considerable. For instance, the issue of stock, the sale of stock to get money to finance the companies and all the related financial activities are included as indirect.

Q. Now, Mr. Heiss, will you state what the functions of the Secretary's Department are?

A. The Secretary performs the usual duties performed by any high type secretary, plus such activities as notices to stockholders and directors of meetings, keeps records of meetings, has responsibility for the annual report distribution and some of its preparation, and generally keeps the files and records of corporate matters and documents involved.

Q. Does the secretary give any assistance or advice on the method of keeping corporate records and the like to [fol. 5648] the Bell Associated Companies?

A. He does.

Q. And the explanation which you have made with respect to the preparation between direct and indirect costs of the other departments applies equally to the Secretary's Department?

A. Yes. You will note that we have assigned only a very

small amount in the column "Direct Costs", whereas the general activities of the Secretary relating to corporate organization matters have been included in the column "Indirect Costs."

Q. Now, will you explain what the General Service Bureau is and what function it performs in this organization?

A. The General Service Bureau has about 210 employees at the present time. Its function is to handle the service work more or less common to all departments of the company where such work can be handled most advantageously by a central organization. For example, the purchasing, handling and issuing of office supplies, furniture, stationery, printing, the production and purchase of reproductions by photostat, addressograph, blueprint, mimeograph and other processes, general drafting work, departmental printing, handles incoming and outgoing mail, telegrams, express and freight matter, collects a list of persons so that when we have positions to fill of a clerical and minor character, we can very readily meet our needs; conduct a centralized messenger force, purchase of railroad tickets, and conducts a junior training school, which is really a continuation school to improve the education of our office boys and to bring them to a point where they have something to look forward to in business; handle orders for telephone equip-[fol. 5649] ment and a hundred other matters of that general character where one department can handle more efficiently than for each to do it for itself.

Q. Now, in the separation of Exhibit No. 10, have you apportioned or allocated the costs of that General Service Bureau as between direct and indirect on the same general principle which you used in the other apportionments or allocations?

A. Yes. Generally this is the fact that the work of the company, after you exclude the Long Lines department, is primarily in connection with activities under the license contract, over 80 per cent. of the work is for that purpose, and naturally these general service activities should have the same apportionment.

Q. Now, the last item under the heading "Departments" is Sundry. Will you state what that is, Mr. Heiss?

A. In describing the departments I gave as the last one, "General Administration". This item of Sundry not only includes general administration but a number of special

payments, and for want of a better description we used the term, "Sundry", although it is probably not as descriptive as it might be. In the column "Direct Costs" we have included such items as subscription to the National Bureau of Economic Research, subscription to the Chamber of Commerce of the United States, contribution to the President's Conference On Unemployment; subscription to The Harvard School For Development Of Preventative Medicine, expenses in connection with our Telephone Pioneers Convention.

Q. Mr. Heiss, without asking you to go into further details, because the item is a very minor one, I understand that the items to which you have referred and the details of [fol. 5650] which you are prepared to give if they are desired on cross-examination, are included by you, a portion of them as direct and a portion of them as indirect costs in estimating this bill of costs of performing services under the license contract?

A. I may say that the first column, the column "Direct Costs," is made up almost entirely of items of this special character which were incurred in the broad general interest of the Licensee Companies. Now, the second column, "Indirect Costs", contains the overhead organization expenses of the American Company, such as the President's office and other general activities.

Q. Now, let's come, Mr. Heiss, to this second general line on Exhibit 10, "Instrument Maintenance". I see from an examination of this exhibit that these instrument maintenance costs are included in Exhibit 10 only for the years 1923 to 1927, both inclusive. Before asking you to explain the elements of cost entering into instrument maintenance, I wish you would state to the Commission why it is that these costs are not included after the year 1927?

A. As of December 31, 1927, the instruments, that is the telephone transmitters, receivers and induction coils previously owned by the American Company were sold to the Licensee Companies.

Q. And so while the cost of carrying those instruments was a proper charge up to and including 1927, it was a part of rendering service under the license contract, after that, the cost no longer appears, is that correct?

A. That is right. The instruments here referred to, as I have said, were telephone receivers, transmitters and in-

duction coils, and were furnished by the American Company under the license contract. The American Company owned these instruments and assumed full responsibility [fol. 5651] for any repair costs in connection therewith, and at the same time the company accrued depreciation on its investment in the instruments over their service life. Now, the item "Instrument Maintenance" represents the cost of repairs and depreciation on receivers and transmitters and induction coils. Now, as the American Company was obligated to furnish these instruments to the Licensee Companies, the amount should in its entirety be included in the column "Direct Cost", and I have so included it.

Q. What was the average investment for 1923 of the American Telephone & Telegraph Company in these instruments?

A. $31,329,013.

Q. And these items that appear here then, as I understand you, opposite "Instrument Maintenance" for the years 1923 to 1927, both inclusive, represent depreciation and repairs to the instruments, these transmitters, receivers and induction coils owned by the American Telephone & Telegraph Company, which it was obligated to and did furnish to the Licensee Companies during that period of time?

A. That is a fact.

Q. Please take the item of taxes. With respect to the amounts appearing for taxes, both in the direct and indirect columns for the year 1923, I want you to state to the Commission how those amounts were arrived at and the reasons for assigning certain portions of those taxes to direct costs and certain portions to indirect costs?

A. The total taxes, both those included in the column "Direct Costs" and in the column "Indirect Costs" amounted to $2,982,657. The taxes here shown contain no amounts whatever for the long lines department nor for non-telephone activities.

[fol. 5652] As to the character of the taxes included in this statement they, I may say, cover excise taxes, franchise taxes, income taxes, Federal capital stock taxes, Federal income taxes and the stamp taxes on securities.

As regards the column "Direct Costs" practically the entire amount included in that column is for Federal income taxes or license revenues and on interest received on de-

mand notes of the license companies and on bank balance, that is, items directly attributable to the license contract.

The remainder represents Federal capital stock tax, which is based on the value of the capital stock, and that, of course, is influence- by the assets and notes, represented by the notes to the licensee companies. The remainder represents Federal capital stock tax and franchise tax.

The column "Indirect Costs" contains excise taxes, some franchise taxes, instrument taxes, some Federal capital stock taxes, and stamp taxes. In respect of certain of these taxes it was necessary to apportion the total paid between direct and indirect and such apportionment was made in connection with the state franchise tax and the Federal capital stock tax. In both these cases the apportionment was made on the basis of assets employed respectively in the direct license contract activities and in the indirectly related activities. Some of these indirect taxes, of course, under the plan of procedure that I have already explained that we have followed in this exhibit, in setting up this exhibit, would be added to the direct costs for license services.

Q. I call your attention now, Mr. Heiss, to the item on this exhibit No. 10, entitled "Cost net of carrying invest-
[fol. 5653] ment in physical property used in rendering license contract service." I want you to explain to the Commission how these figures were arrived at, both under the direct and indirect columns for the year 1924, giving such details as are reasonably necessary for a correct understanding of this item?

A. During the year 1923 the American Company had an average investment in telephone plants, that is, in the receivers, transmitters and induction coils, of $31,329,013. It further had an investment in real estate in its New York headquarters office building of $11,295,095. In addition it had investments in office furniture of $749,803 or a total investment of $43,373,911. Depreciation accrued against this investment was $15,340,796. And deducting this item, as we are here concerned with a statement of costs, deducting this item less a net balance of investment of $28,033,115.

The average cost of funds employed in the company's business for that year was 6.87 per cent, and consequently this net balance of investment, that is, $28,033,115, cost the American Company during 1923 in capital charges the amount of $1,925,875.

From this amount should be deducted rent revenues received during the year for quarters rented in the office building, the New York headquarters office building, in the amount of $598,157, leaving a net cost in respect of the investment referred to of $1,327,718 which is the amount appearing in the column "Total" for the year 1923 about midway down the column.

In order to obtain the figures for the columns headed "Direct Costs" and "Indirect Costs", it was necessary to [fol. 5654] make an apportionment of the total average investment already mentioned. The investment in telephone instruments relating entirely to license contract activities is accordingly assignable thereto in its entirety. The remainder of the investment, representing real estate and office furniture and fixtures, was apportioned to direct and indirect activities in the ratio which direct and indirect departmental expenditures played to the total departmental expenditures; that is, this large group of people of nearly 3000 at the present time must be housed and must have office equipment and so on and the rent and the cost of the capital for supplying the quarters naturally should follow the work these people do.

A deduction for depreciation was made in each column in accordance with the facts relating to the division of the investment.

Now, as a result of this apportionment, the average investment assignable to direct license activities was $26,120,546, and to indirect activities was $1,912,569.

Applying the cost of funds used in the business for 1923, namely, 6.87, to these amounts respectively, and giving proper credit by way of rent revenues received, we arrive at a net cost of carrying investment to be shown in the column, "Direct Costs" is $1,293,984, and for the column "Indirect Costs" $33,734.

Q. This last item which you have discussed, Mr. Heiss, the cost net of carrying investment in physical property, I noticed when you were testifying that you referred to the cost of carrying the investment in the instruments, and of [fol. 5655] course in the instrument maintenance you have included depreciation and repairs on those instruments. What is the fact as to whether there is any duplicate in these items with respect to these instruments in any way?

A. There is no duplication whatever. And I may say, as

the years passed and the instruments were sold, the various columns by years reflect the changed situation.

Q. In other words, when these instruments were actually sold and disposed of, there is no further cost for carrying the investment of those instruments included in this bill of costs?

A. That is a fact.

Q. Now, before discussing the question of the cost of holding funds to meet the cash requirements of the licensee companies in their temporary financing, explain how you arrived at the average cost of funds each year to the American Company as shown on the last line of this exhibit included within the ruled columns; and, inasmuch as this cost is lower in the later than in the earlier years, explain this situation for each of the years 1923 to 1930 both inclusive.

Commissioner Geiger: In detail or generally?

Q. Generally; the figures that I am talking about, Mr. Heiss, start with 6.87 per cent in 1923 and end with 6.25 per cent in 1930?

A. That is right.

Q. Now, I don't mean by this that you should go into all the details, but only a general explanation.

A. I shall explain the matter very briefly. In arriving at the average cost of funds employed in the company's business during the years '23 to '30, both inclusive, I determined for each year the average amount of capital stock, the capi- [fol. 5656] tal stock premiums, the capital stock installments, the funded debt and other debt obligations outstanding. The annual average for each year was computed by taking the sum of the amounts outstanding at the end of each of the 12 months during the year and dividing the total by 12. That gave me an average for the year.

To the sum total of all of these capital obligations outstanding I added the total surplus of the company, likewise averaged. This latter sum represented the average total capital funds plus surplus used in the business of the company during the year.

I then ascertained the total amount of dividends and interest for the year on these obligations, and increased this amount by the allocate- portion of the unamortized bond discount on debt issues outstanding, which is an interest function.

This sum total of charges represents the cost to the company of funds used in the business during the year, and by dividing this sum by the total capital obligations plus the surplus, I arrived at a percentage rate showing cost of money used in the business.

These percentage costs representing the actual cost of money to the company were, for the years under consideration as follows: 1923, 6.87; 1924, 6.85; 1925, 6.93; 1926, 6.83; 1927, 6.86; 1928, 6.55; 1929, 6.53; and 1930, 6.25. The same method of procedure was followed for each of the years.

You have asked that I indicate why the cost of funds used in the company's business is lower in the later years than [fol. 5657] in the earlier years. This decrease in the cost of money used in the business in the later years below the earlier years in question, is due primarily:

First, to a considerable increase in the amount of premiums realized on the sale of capital stock. In 1923 the average of capital stock premiums carried on the books was $52,290,661, about 4½ per cent of the total capital funds and surplus; while in 1930 these premiums amounted to $207,419,729, over 7½ per cent of the total capital funds and surplus.

Second, to the amount of surplus included in the computation. In 1923 the surplus amounted to roughly 10 per cent of the total capital funds employed in the business, while in 1930 surplus was approximately 13 per cent of the total funds employed in the business.

Third, to a slight reduction in the rate paid for borrowed money used in the business.

Q. Mr. Heiss, will you take up now the costs incurred in holding funds available during the year to meet the cash requirements of licensee companies, and explain why it is necessary and was necessary during each of these years for the American Telephone & Telegraph Company to have such funds and why it cost the American Company to hold these funds on behalf of the licensee companies?

A. You have asked why it is necessary for the American Company to have large cash balances available, and why there is any cost in connection therewith that should be charged as a part of the costs of performing license contract services.

Under Section 5-B of the license contract now in effect, [fol. 5658] and this is true of the contracts back through

the years, "The American Company agrees to give aid to its licensee companies in financing new construction and other expenditures." To this end it has been the practice of the American Company for a number of years to make available funds required by its licensee companies from time to time in financing the development of their properties.

Large amounts of funds are required to care for the construction needs of the numerous licensee companies, whose aggregate construction programs have during recent years ranged from $500,000,000 to $600,000,000 per year, and for the present year this figure is over $400,000,000. These programs, during each of the past few years, have called for large amounts of new money, $250,000,000 in 1924 and upwards of $400,000,000 in 1929, and during 1930 $339,000,000, and so through each of the years there have been very sizable demands upon the American Company for funds, some years more, some years less.

In any one month calls upon the American Company for funds may aggregate $10,000,000 upwards to forty or fifty million dollars. It is consequently necessary in order to meet these financial needs of the companies over and above such financing as is done by the licensee companies, for the American Company to have on hand in a form readily convertible into cash large amounts of temporary investments and liquid funds. In a financial undertaking of this magnitude the American Company obviously cannot do new financing from month to month, but must obtain the funds in sizable issues of securities, either stock issues or bond issues.

[fol. 5659] During the period under consideration, that is, 1923 to 1930, the American Company has made four large stock issues and four large bond issues. These, with other minor financing, produced nearly two billion of new capital, which with the exception of the balances that we now have on hand, has been devoted almost entirely to the development of the properties of the licensee companies and the long lines. At times the balances on hand have aggregated several hundred millions of dollars and other times the balances have been small and then new financing has been necessary.

During the time such funds were carried on a temporary investment basis by the American Company, the yield is small, scarcely ever exceeding 4 per cent., and at times

considerably lower, depending upon the condition of the money market. On the other hand, during the time that these funds are held available, the cost to the company for them is the same as for any other money used in the business, and these costs I have already given for the years from 1923 to 1930 inclusive. The amount shown in the total column of cost of temporary financing represents the difference between the costs of the funds which the American Company holds available to meet calls therefor from its licensee companies and the amount of interest which the American Company received thereon while it is so held.

For the most part, these funds, while held by the American Company, are invested in United States Government obligations, such as bonds and certificates of deposit, and state obligations, tax notes, etc. It selects high grade investments so as to secure safety in investment. At the [fol. 5660] same time its investments as a rule yield a relatively low return.

During the year 1923 the company carried an average balance of temporary cash investments available for its licensee companies of $53,504,232. In addition it carried an average of cash deposits in working funds of $23,620,401, an average total during the year of $77,124,633. Now, all of this amount is held available for the licensee companies with the exception of an estimated amount of $4,945,000, which has been allocated to indirect license contract activities.

As already stated, during 1923 the average cost of funds employed in the business during that year was 6.87, and applying this rate to the average balances held available and giving credit for the interest earned on these funds while in possession of the American Company, we arrived at the following costs of holding funds available: column "Direct Costs", $2,368,129; column "Indirect Costs", $222,-647; and for the "Total" column $2,590,776. A part of the sum of $222,647 should be added to the amount of the direct costs here shown.

Q. Please explain the cost net of temporary financing to the American Company and to the licensee companies——

Commissioner Geiger: Wouldn't it be possible for him to say whether as to that item the testimony given as to the other item above is practically a substantial explanation of it?

Mr. Thompson: I am sorry, but it is essentially different.
Commissioner Geiger: All right, go ahead.

Q. Will you explain that briefly, Mr. Heiss?

[fol. 5661] Commissioner Geiger: Not quite so much detail.

The Witness: All right. The licensee companies call upon the American Company frequently for funds in small amounts as needed. Now, these funds are advanced on demand notes and open account, occasionally time notes, and in practically every case on a 6 per cent. basis less 2 per cent. for prompt payment of interest monthly. Now, under this method of financing the licensee companies have available promptly as needed funds to finance expansion, development of their properties and obviates otherwise frequent outside financing on their part, or the carrying of large temporary loans in banks or the carrying of large cash balances from permanent financing in advance of their needs. This type of financing we label temporary financing.

As I have already said, the interest is 6 per cent. less 2 per cent. for prompt payment, or a net of 5.88 per cent. These funds, however, cost the American Company the same as other funds used in the business, which for 1923 were 6.87 per cent., and the difference between the 6.87 per cent., cost of these funds to the company, and the amount of 5.88 per cent. received, represents the cost to the company of its temporary financing as a part of its activities under the license contract. Now, all of this cost is incurred directly in giving service to the licensee companies, and has been included in the column headed "Direct".

Q. Is there any duplication between these two items of financial cost?

A. No, there is none. The last mentioned item, temporary financing, is that financing which has been carried out and money passed to the licensee companies, whereas the [fol. 5662] next preceding item refers to the funds which we hold in New York available for the companies.

Q. Now, a general question, Mr. Heiss, before we go to sub-division B; the amount for license services, if I get the theory under which you have prepared these direct, indirect and total cost, you have first taken under the "Direct" column those items of expense in your opinion directly attributable to the rendition of license contract services?

A. I have.

Q. You have taken under the "Indirect Costs" those costs not directly attributable to the license contract services but items of overhead, administration and so forth, where the costs, although indirect, are a part of the rendition of the services under the license contract, after you have deducted therefrom the costs of the so-called holding company organization?

A. Yes, the costs in the "Indirect" column are costs which have definitely joint application and they have been put there so as to bring all of those joint and inter-related costs together.

Q. And then by deducting from them the part that is related in your opinion to the holding company activities to arrive at a portion of indirect costs which, when added to the direct costs, will show a proper estimate of the total cost of functioning under the license contract?

A. That is exactly the fact. And for the year 1923 such estimate of cost, the direct plus the part assigned or added of the indirect, was $21,269,690.

Q. After deducting the million dollars referred to?

A. After deducting the million dollars referred to.

[fol. 5663] Q. Now, under Sub-Division B, "Amounts Received for License Contract Services", state whether you have set out for each of the years the amounts received for license contract services from the licensee companies, the amount charged in the departmental accounts against the long lines department for such services separately, and a statement of the basis upon which such revenues were received for each of the years?

A. I have.

Q. In this Exhibit No. 10 there appears a balance in some years in black and in other years in red. Please state what these balances represent?

A. The balances in black indicate that the revenues received for license contract services were in excess of the total costs incurred in rendering such services. That is, after deducting——

Commissioner Geiger: We see that. You don't have to go into too much detail about that.

The Witness: All right. The red——

By Commissioner Geiger:

Q. Let me ask one question. We see in 1928 you have dropped your service charge from 4 per cent. to 2 per cent. That accounts for its being in red in 1928 instead of black, I assume, does it not?

A. That is one of the factors.

Q. Well, that is one of the main factors?

A. Yes.

Q. In 1929 you dropped it to 1½ per cent. instead of 2 per cent., which makes you a larger sum in red? That mainly accounts for that red, does it not?

A. Yes.

Q. And 1930 you still have 1½ per cent., which also produces a red figure of $11,235,124; is that correct?

A. That is true.

[fol. 5664] Q. Under the new contract you have returned to 2½ per cent. Did you do that because it had been in red under those lower per cents, 1½?

A. No, we have not returned to 2½ per cent. It is written in the contract, but the contract is modified by letter and the rate is 1½ per cent.

Q. Still 1½ per cent.?

A. Yes, sir.

Commissioner Geiger: All right.

Mr. Thompson: I will come to that in just a minute, Judge Geiger.

Commissioner Geiger: Just make it short.

By Mr. Thompson:

Q. Have you included in the cost of rendering services under the license contract in any of these years any sum or amount for contingencies?

A. I have not.

Q. In your opinion is there a contingent liability on the part of the American Company under the license contract for which some reasonable provision ought to be made in these expenses?

A. Yes, I am definitely of the opinion that the conditions attaching to the performance of license contract services create a contingent liability upon the American Company for which some reasonable provision should be made. One reason in support of this opinion is that the American Com-

pany is placing at the disposal of the Licensee Company approximately 11,000 patents which it owns, controls or is licensed under or for which it has applications pending. These patents enter into the materials and equipment acquired and used by the Licensee Companies, and under the license contract the American Company assumes all obligation to hold its licensees harmless in the event of infringement suits by others. There are now pending two [fol. 5665] such suits which involve many of our basic items of equipment found in the telephone plants of the Licensee Companies. In the past there have been other suits involving similar claims of infringement.

Again, if the license contract services to the companies were terminated at any time in the future, there would continue to be a liability attaching to the American Company; that is it would be obligated to hold its licensee companies harmless of subsequent claims for infringement.

By Commissioner Geiger:

Q. Now, you have given in very interesting detail the costs of the American Telephone Company for the services rendered and the cost thereof to the Associated Bell Telephone Companies. Now, may I ask whether any of those costs so set out in detail and testified to by you in detail appear as costs for reconstruction of the American Bell Telephone Companies in the inventory filed in this case, or whether they appear there in duplicate of this or omitted because they are included in this service? For instance, as an example, you have cost of financing to some extent. Now, probably if the inventory follows the usual one for reproduction you would have the cost of financing. Is that covered by these items here? Would it be safe for us to take this per cent. of the cost of the service to cover like services in the theoretical reconstruction of the property?

A. In the first place, there are no such costs as you have mentioned here.

Q. Well, all right, that is enough. I don't care anything more about it. Now, in keeping your books and supervising the keeping of the books of the local company are you satis- [fol. 5666] fied that the book value shows actual value of the local company, do you have supervision of that?

A. I am satisfied that the books of the local companies reflect actual expenditures made for property. That is the way we must keep our records.

Q. Yes, I understand. But do those books as set up showing book value, do they take into consideration properly a depreciation of the property that is represented by the costs in the book valuation? Is there an element for depreciation?

A. We must set up and do and our books are so set up, they are set up on the basis of the actual investment made. Now, on the liability side of our balance sheet we carry a depreciation reserve which is in all cases built up on the basis of the service life and salvage considerations attaching to the property.

Q. One question I wanted to get, do your books which set up the book value of the property as of a beginning date take into consideration that some of that property that is so represented by book value has depreciated since installation to some extent, or do you wait until you remove the property before you put the proper credit for property removals?

A. We never write down the property accounts to write out depreciation until the property is retired and taken out of the books.

Q. I see. So would it be fair to say that the sums that were submitted in a schedule yesterday running up to the book value of property for 1916 to 1930 represent a book value which has not been depreciated by any depreciation in the property for wear and tear, lack of service and so [fol. 5667] forth, unless the property has actually been removed from service?

A. Well, now, Your Honor, the practice which I have described is the practice in the telephone companies, because we are controlled by the uniform system of accounts. Now, what practice the Western follow in that respect I am not in a position to say, because the accounts of the Western are under its own comptroller.

Q. You gentlemen see what I have in mind and can make some explanation somewhere along the line. Just one other thing; in your Exhibit No. 11, you show in the first column, Column A, costs incurred for years 1923, '24, '25, '26 and '27, as substantially less than the corresponding figures in column B, but beginning with 1928, 1929 and 1930 your costs incurred are substantially more and increasingly more than the corresponding figures in column B, to-wit, the amounts received in those years; you see what I mean?

A. Yes, sir.

Q. Now, is there any cause for the break in that at 1928 other than the change from your 4½ to two and 1½ per cent for your services?

A. That is the principal reason. There are some minor ones.

Q. Now just one other question. You have given your costs based upon these per cents of the gross income of the company. Have you ever estimated and have you available as such what per cent those costs are of the net income of the several companies?

A. I do not have those figures with me.

Q. Those could be ascertained?

A. They can be computed.

Q. Of course, we assume that that which appears as 4½ per cent of the gross income will be a considerably larger per cent of the net income, might possibly be as high as [fol. 5668] 50 per cent of the net income or evern more than that; is that correct?

A. It might be, whatever the computation would show.

Q. Wouldn't it be possibly enlightening to know what per cent is paid to the American Telephone & Telegraph Company of the net income rather than of this rather indefinite gross income.

A. It would be an interesting figure, yet the services really affect the production of gross income.

Q. Still we might be able to tell how much really goes to the American Telephone & Telegraph Company out of the net income of the company, rather than out of the gross.

A. I may say as regards Exhibit 11, nothing has been included in that exhibit for contingencies, which should be taken into consideration.

And thereupon a recess was taken until 1:00 o'clock P. M. of same day, April 17, 1931.

[fol. 5669] Friday Afternoon Session

April 17, 1931.

And also CHARLES A. HEISS, resuming the stand, continued his testimony as follows:

Examined by Mr. Thompson:

Q. In your opinion, does Exhibit No. 10 show a fair and conservative estimate of the costs, both direct and indirect,

incurred by the American Telephone & Telegraph Company for the years 1923 to 1930, both inclusive, in rendering services under the license contract, after making an adequate deduction for expenses incurred by that company in connection with its ownership of system securities and related financial expenses?

A. The exhibit from my knowledge of the character of the American Company's activities and the purpose for which its services are rendered, shows a fair and conservative estimate of costs incurred by the American Company in furnishing its licensee companies with services under the contracts, except that no provision is made in the figures on Exhibit 10 whatever for contingencies.

Now, as indicating the fact that such provision should be made, I may say that in the past the directors of the company, in recognition of the necessity of such provision against liabilities arising in the future, have deemed it wise to make appropriations for contingencies and we carry a contingency reserve. The appropriations to this reserve for 1923 were $3,000,000, for 1924, $3,000,000, for 1925 $6,000,000, for 1926, $4,000,000, and since then we have added [fol. 5670] nearly fifteen million. Now, no part of this provision for contingencies that I am calling attention to is included in the costs in Exhibit 10.

Q. But what you are saying to the Commission, as I understand it, is that although you have not carried any provision for contingencies into this bill of estimated costs, that in your opinion some amount should be included annually on account of contingent liabilities?

A. Some amount should be set aside annually as representing provision against contingencies which exist and which do and will arise in the business.

Q. And when you say, "Set aside", I assume you mean charged as a part of the expenses?

A. Yes, or at least added to the costs, that we set up here as definitely incurred.

Q. Mr. Heiss, I have asked you particularly on this exhibit about the year 1923 and in some few instances about other years. What is the fact as to whether the estimate you have given and the explanations you have made application to the year 1923 also apply to the other years shown

on Exhibit 10, with the exception that the figures vary for the different years?

A. They do. That is in general the same method of procedure has been followed in arriving at the costs of rendering license contract services for the years '24 to '30, inclusive, as were used in ascertaining the costs for the year 1923. The activities of each of the years following '23 were carefully reviewed and whenever items of a special nature were presented, specific consideration was given to their proper allocation. There were several major changes dur-
[fol. 5671] ing the period which entered into the computations.

On December 31, 1927, the telephone instruments were sold and the item of "Instrument Maintenance and Taxes" is thereafter not present in the computations.

Again during the course of the eight years the per cent of gross revenues paid by the Licensee Companies has been reduced. In 1926 this per cent was reduced from 4½ per cent to 4 per cent. In 1927, concurrently with the sale of the instruments the per cent was reduced from 4 to 2 per cent. On December 31, 1928, this charge was reduced from 2 to 1½ per cent. The last two reductions were made subject to the reserved right of withdrawing the rates indicated and establishing a rate not to exceed 2½ per cent.

Q. Just in that connection, your attention was called this morning by Mr. Commissioner Geiger, to the present license contract between the Ohio Bell and the American Company which contains on its face a provision that the payment under the license contract shall be 2½ per cent of gross revenues?

A. Yes.

Q. Did I understand you to say this morning that that amount actually is 1½ per cent pursuant to certain communications between the parties?

A. That is a fact.

Q. And subject to the reserved right of the American Company after a certain notice to increase that percentage?

A. Yes, sir.

Q. How long notice does that require, do you remember?

A. Four months notice.

Q. Four months notice?

A. Four months notice.

[fol. 5672] Q. I am not so vitally interested in that ques-

tion, Mr. Heiss, as I am in the proposition that what is actually being paid now is 1½ per cent of the gross revenues specified in the license contract, is that correct?

A. Your question is whether 1½ per cent is now being paid?

Q. Yes.

A. Yes, that is a fact. There is one other change which affects the figures which I would like to mention.

Q. All right, sir.

A. The company's New York headquarters office building was sold in December, 1925, to a building corporation and thereafter we do not have repairs and maintenance in the computations, but the element of rent comes into the picture.

By Commissioner Geiger:

Q. Is that the building down near the Battery?

A. 195 Broadway. The American Company owned outright the building on the corner of Fulton and Broadway. It owned jointly with the Western Union the building at the corner of Dye and Broadway. And in 1925 it sold to the 205 Broadway Corporation the Fulton-Broadway corner, so that both buildings were thereafter under a building corporation which could give us better service.

Q. Exhibit No. 10 does not show estimated cost of rendering license contract service subsequent to 1930. Has there been sufficient experience during the year 1931 so that you can give the Commission an intelligent forecast as to what the results will be for the year 1931, and what I mean by results, Mr. Heiss, is whether or not there will be a deficit or a balance, and if so, to what extent?

A. I believe we have sufficient experience to make such a reasonable forecast at the present time, and from the facts [fol. 5673] I have I think I am entirely safe in saying that the costs incurred in rendering license contract services during 1931 will exceed the revenues received by at least the amount in which such costs exceed revenues received during 1930. I see nothing in the picture at present which would materially change the situation. I also feel that about the same deduction must be made for the financial activities. What we have deducted for the several financial activities during the past is, in my opinion, fair and reasonable and probably more than we should deduct, but I think for the year 1931 the same provision would be adequate.

Q. I was just going to call your attention to that series of deductions made on this Exhibit 10. Starting with the year 1923 you have deducted a million dollars for what you have termed the activities of the American Company in the ownership of system securities and like activities and which I might refer to as its holding company activities?

A. Yes.

Q. You have advanced that sum from time to time in these exhibits until in 1930, the deduction amounts to 2½ million dollars, is that correct?

A. That is right.

Q. Now, I wish you would explain to the Commission why in making up this bill of estimated costs you started with a million dollars in '23 and gradually increased that amount to two and a half million dollars in 1930?

A. My reasons for increasing the estimate of expenses attributable to the ownership of system securities and related financial expenses, that is our holding company activities, from a million dollars in '23 to $2,500,000 in 1930 are that the American Company's ownership of system securi- [fol. 5674] ties have practically tripled during this period, as has also its outstanding capital stock. These increases, of course, increase the proportion of the general expenses of maintaining a corporate structure, a portion of which should be assigned to the several financial activities which we mentioned. These expenses, however, do not necessarily increase in direct proportion to the increase in security holdings, or in the amount of capital stock outstanding or in other transactions related thereto or on an even trend through the years. However, I feel very certain that a gradual increase in this item from one million in 1923 to two and one-half million in 1930 is a fair and reasonable allowance and consistent with the facts. The amount must be excluded on the basis of an estimate. We have no accounts showing the facts.

Q. I call your attention to the fact that there is a substantial variation of the amount of taxes included in Exhibit No. 10, both in the direct and indirect costs in the various years, and that in the later years these costs are much reduced over the costs in the former years. Will you explain the reason for this situation to the Commission?

A. One reason for the lower taxes in the years '28, '29 and '30 is that through the sale of the telephone instruments

to the Licensee Companies the amount of license revenue which constitutes an item of taxable income, was reduced from 4 to 1½ per cent of gross revenues.

In addition, during the last few years when the company carried substantial cash balances a considerable part of these balances were in tax-free securities. These two con-
[fol. 5675] ditions result in reducing taxable income derived from license contract activities, and after you deduct from such income as we realized as a result of our license contract activity the proportion of deductible expenses there was presented the smaller amount of taxes.

Q. Did you prepare or have prepared under your direct supervision Heiss Exhibit No. 11?

A. Yes.

Q. Please explain what this exhibit shows and whether the data used in its compilation was derived from Exhibit No. 10 and is based upon the books of the American Telephone & Telegraph Company?

A. Exhibit 11 is a summary for the period 1923 to '30, both inclusive, of the costs incurred on account of and the amounts received for license contract services.

Briefly, this exhibit shows in the first column that during the eight year period the estimated cost incurred by the American Company in rendering the license contract services were $198,948,081, and that the amounts received from the Licensee Companies for such services were, as shown in column B, $203,628,089. The amount by which the total license revenue received exceeds costs incurred during the eight year period was $4,680,008, or an average balance over costs per year of $585,001 for the entire group of licensee companies of the Bell System.

Q. Have you prepared statements, Mr. Heiss, which show the reconciliation between your Exhibit No. 10 and the Interstate Commerce Commission reports for the years 1923 to '30, both inclusive, which have been identified as Exhibits 1 to 8, both inclusive?

A. I have.

[fol. 5676] Q. I hand you now Exhibits 12, 13, 14, 15, 16, 17, 18 and 19 and ask you whether those are the reconciliations to which I have just referred?

A. Yes. Exhibit 12 for the year '23——

Q. Just a minute. I want to ask you first whether this Exhibit 12 shows this reconciliation for 1923 and whether

an explanation of that will apply equally to these other exhibits?

A. That is the fact.

Q. Now, please explain Exhibit 12, if you will.

A. Exhibit 12 shows the amount for certain accounts reported to the Interstate Commerce Commission. Those amounts appear in the column headed "Total Company," and off on the left hand margin of the page is the I. C. C. schedule and next the account number under which these accounts are reported. These accounts reported on Exhibit 12 contain the same items which appear in the classification of items set up on Exhibit 10 under the separation "Departmental Costs," "Instrument Maintenance" and "Taxes."

I pointed out this morning that we classified all of our accounting items in two ways, one classification being that required by the Interstate Commerce Commission and the other the classification which we keep for administrative purposes, and Exhibit 12 merely attempts to reconcile the two classifications and to show that Exhibit 10 contains the amounts which have actually been included in the accounts reported to the Interstate Commerce Commission.

Q. Now, Exhibit 12 does that for the year 1923?

A. It does.

Q. And the other exhibits, 13 to 19, both inclusive, show [fol. 5677] those reconciliations for the years '24 to '30?

A. That is a fact.

Q. And the explanation that you have just made with respect to 12 is equally applicable to these other exhibits?

A. Yes. And let me just say one word more. There is a column "Total Company" which shows the amount included in the Interstate Commerce Commission report. The next column is headed "Long Lines." I have said we keep separate accounts for the long lines, which permit us to show for each account the long lines' portion of the total.

The next column, "Balance," is the difference between the long lines and the total company, and if you will follow me to the fourth line from the bottom of the page, you will note on the exhibit for '23 an amount of $13,908,787. Then in the last column we include $13,832,626, which is the amount that we have included in Exhibit 10 for 1923 for the two items, departmental cost and instrument main-

tenance. As you see in Exhibit 10 in the column "Total," $10,613,032, and the item "Instrument Maintenance," $3,219,594. The sum of these two items is the amount appearing in the last column of Exhibit 12. The difference between the amount in the last column and the column "Balance" is excluded as pertaining to non-telephone activities.

Q. Does that finish the explanation which you desire to make with reference to these reconciliation exhibits?

A. Yes, sir. The same general principle has been carried out in showing the other items. We desire merely to show how the items in this exhibit can be traced to the I. C. C. report.

Q. On what basis, Mr. Heiss, are the payments made by [fol. 5678] the Associated Bell Companies to the American Telephone & Telegraph Company for services rendered under the license contract?

A. On the basis of a percentage of certain gross revenues of the Licensee Companies.

Q. Varying throughout the years and has been during this period constantly down?

A. That is right.

Q. Now, are there other conceivable bases upon which this payment might be made?

A. Yes. Payment might be made based on the expenses of the Licensee Companies or on the number of stations in service, on the book cost of the property of some companies, or on a composite of these several bases.

Q. Have you prepared an exhibit identified as Heiss Exhibit No. 20 which shows the payment actually made by the Ohio Bell Telephone Company for the year 1923 based upon 4½ per cent of certain gross revenues and what that payment would have been if it were based either on the average stations in service, the average plant in service, the operating expenses or a composite of the latter three classifications?

A. I have prepared such exhibits for 1923 and '4——

Q. Yes, I will get to the subsequent years later, Mr. Heiss, on this Exhibit 20 I note in the first ruled column at the right opposite the phrase, "License payment by the Ohio Bell Telephone Company," 3.80. Will you explain that figure to the Commission?

A. The amount of the license payment of the Ohio Bell

Company was 3.8 per cent of the total payment received by the American Company from all companies.

Q. Including the long lines department?

A. Including the long lines department.

[fol. 5679] Q. Just to be perfectly certain that I understand your answer, during the year 1923, of the total payments received by the American Company from the Licensee Companies, including the amount actually charged against the long lines and its proportion of this cost, the Ohio Bell's part was 3.8 per cent?

A. That is right.

Commissioner Geiger: Well, it was $984,645, is that right?

The Witness: Yes, sir. And on average stations it would have been 4.54.

Q. And average plant 4.90?

A. Yes, sir.

By Commissioner Geiger:

Q. The purpose of that comparison is to show that the Ohio Bell Telephone has not paid as much as it would have paid had it paid in these other ways?

A. That is right.

Q. It is favored as against other Bell Telephone Companies?

A. Yes.

Commissioner Geiger: All right.

Mr. Thompson: It is not our position that it is favored, but merely we are attempting to meet certain criticisms that have been levied against the collection of the cost of this service based on gross revenues, and to show that if it had been done on some other basis or any other basis that we can think about the result would have been less favorable to this particular company.

The Witness: The purpose is to show that the revenue basis is a fair one, as fair as any other basis that could be used.

Q. Now, I hand you, Mr. Heiss, Exhibits 21, 22, 23, 24, 25, 26, and 27 and ask you to state whether for the years [fol. 5680] 1924 to '30 those exhibits contain calculations identical with Exhibit 20 which has just been introduced

in evidence except that they are for different years and that the amounts contained in these exhibits are, of course, not the same as those shown on Exhibit 20?

A. That is the fact.

Mr. Thompson: Now, so that there may be no misunderstanding as to whether these exhibits have gone in, at the close of Mr. Heiss' direct testimony, we offer in evidence all of the exhibits which have been identified as a part of his testimony, including Exhibits 1 to 27, both inclusive.

And thereupon the paper writings above offered were introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and are herewith submitted, marked Heiss Exhibits Nos. 1 to 27, both inclusive.

Q. I have just one further question to ask. On Exhibit 11 there appears the average balance per year, that is the amount annually by which the sums collected by the American Company for licensee revenues exceed the costs incurred as shown on your Exhibit No. 10, without, however, making any provision for contingencies. That average yearly balance is $585,001. How much of that average balance, without any provision for contingencies, was actually paid by the Ohio Bell Telephone Company?

A. On the basis of computations made, I would say about $24,000.

Q. About $24,000?

A. Yes.

Q. Is that an annual figure?

A. An average annual figure.

[fol. 5681] Mr. Thompson: That is all.

Commissioner Geiger: Just wait one moment. I don't get that. You say an annual average figure?

Mr. Herbert: I think, if Your Honor please, they mean by that that there is 3.8 per cent, approximately, allowed annually out of this five hundred and some thousand dollars which appears as the last figure on Exhibit 11.

Commissioner Geiger: Well, it in no way contradicts your other exhibit 20 that in 1923 you paid $984,645?

The Witness: No, Your Honor. The Ohio Bell is about 4 per cent of the system, whether you look at it from the point of revenue, stations, plant or as a composite figure,

and this 24,000 estimate is just 4 per cent of the 585,000.

May I add just one item further as helping to understand Exhibit 10? We have in New York engaged on work on activities under the license contract and related financial activities at the present time nearly 2,600 people. This number has grown from 1,824 in 1923 to 2,589 in 1930. This does not include the further force of the Bell Telephone Laboratories which is also devoting its time and for which costs are included in Exhibit 10.

Commissioner Geiger: I didn't get that. Are the Laboratories' costs included in this?

The Witness: The portion of the Laboratories' costs which the Laboratories bills the American Telephone & Telegraph Company on a cost basis for services is included in Exhibit 10. The Laboratories have approximately 5,000 people engaged on its work.

Commissioner Geiger: Is that all?

[fol. 5682] Mr. Thompson: That is all we have.

By Commissioner Geiger:

Q. Do you have a like or similar agreement with the Western Electric Company?

A. No, sir.

Q. They don't pay you any per cent of gross income?

A. They do not.

Q. And do you have anything of that sort with the Graybar Company?

A. No, sir.

Q. The charges that you have set out here which appear to be 1½ per cent of the gross income of the telephone companies are all the charges that are made by the American Telephone & Telegraph Company against the local companies such as the Ohio Bell Telephone Company?

A. They are all the charges for services. Now, of course, we charge them for money loaned.

Q. Money loaned direct to them?

A. Yes.

Q. And I presume you pay them for money that they deposit with you over and above the amount you loan them?

A. Yes, sir. If they had money and wanted to place it with us, either by way of reduction of loans that they have from us or other monies, we take it at the same rate we charge them.

Q. Now, I understand we can ascertain from your Exhibits 20 to 28 or 29 how much of this annual amount that the company receives in gross from all the Bell Telephone Companies is paid by the Ohio Bell Telephone Company?

A. Yes, sir.

Q. That is set out in the upper right hand corner?

A. Yes, sir.

Commissioner Geiger: All right. Cross-examination, Mr. Herbert?

Mr. Herbert: I will ask a few questions, Your Honor.

[fol. 5683] Cross-examination.

By Mr. Herbert:

Q. If I understand it correctly, Mr. Heiss, your exhibits 12 to 19, inclusive, are prepared with a view to reconciling the figures as they appear in your exhibit 1 to 8 inclusive with your figures as they appear in Exhibit 10?

A. That is right.

Q. Do any of these exhibits show the revenues derived from long lines or on license activities according to the year?

A. Not separately. The reports to the Interstate Commerce Commission includes those revenues as it does also the expenses of the long lines activities. You see that report is a report for the entire company, including all of its activities.

Q. Now you testified about this matter of contingencies, that there were two suits now pending for alleged infringements of patents?

A. That is right.

Q. Anything else that might arise as a contingency?

A. You mean——

Q. As to these past years?

A. Are there any other possible contingencies in the picture?

Q. As to these past years?

A. I don't know. Of course, we put 11,000 patents at the disposal of our companies. We don't know when, next year or the year after, some——

Q. In whose name are these 11,000 patents taken out?

A. These 11,000 patents are patents that are owned or

controlled or licensed, for which applications are pending in the name of the American Company and some in the [fol. 5684] name of the Western Electric.

Q. Isn't it a fact that practically all of the—I mean substantially all of the patents are in the name of the Western Electric?

A. No.

Q. What percentage, approximately?

A. I can't tell you the percentage.

Q. Approximately?

A. I wouldn't want to venture a guess, but the American Company owns a great many patents relating to the telephone instruments.

Q. Would you say it owned as many patents as the Western Electric?

A. If I were to say so, it would be simply a rough guess, but I know that the American Company have a very substantial investment in patents.

Q. Isn't it the practice for the Western Electric Company to take the patents on anything which is patented as a result of the activities of the Bell Laboratories?

A. You see, a great many of those patents, if the patent is developed as a result of the Bell Laboratories, if it applies to telephone appliances, the Western assume the cost and takes the patents, but they are for the benefit of the Licensee Companies, nevertheless.

Q. Well, the Licensee Companies pay for those when they purchase materials from the Western Electric Company, don't they?

A. Just the same as you pay for a patent on an automobile when you buy the automobile.

Q. And just as the Independent Telephone Company pays for the use of that patented appliance when they buy it from Graybar?

A. I don't know that the patent enters into articles that Graybar sells, but I suppose if anyone buys from the Gray- [fol. 5685] bar he pays his portion of the patent costs of anything that Graybar sells.

Q. Just as the Associated Bell Companies pay to the Western Electric the proportionate share of that cost?

A. That is true, and that is just an ordinary business practice.

Q. So there is no responsibility of the A. T. & T. Company in that regard, is there?

A. I don't understand your question.

Q. Well, the responsibility lies with the Western Electric Company to protect the Associated Companies in any instance where the Western Electric owns the patent?

A. No, I think the arrangement goes back to the 1882 contract where the Wester- makes itself responsible for patents on telephone appliances and the American Company, of course, assumes the responsibility for patents of the telephone instruments.

Q. And there is a definite policy of division between what patents are taken out in the name of the Western Electric and what patents are taken out in the name of the A. T. & T., is there not?

A. I think there is just a general rule that is followed.

Q. What is the rule?

A. As I said, the Western assumes the patent on telephone appliances, on patents entering into articles that are manufactured. When you get to the point of manufacturing an article, the Western assumes the patent. Now, on other——

Q. What patents is it the American Company assumes?

A. Fundamental patents underlying the telephone instruments and so on, those patents are in the name of the American Company.

Q. I don't mean to confuse you or to cut you off from [fol. 5686] completing your answer, Mr. Heiss, but will you distinguish between those things which the Western Electric Company patents and those things which the American Company patents?

A. I can only give you an answer in very general terms. Patents are not my line and the division of patents is not in my line, but I can say this, that the fundamental patents relating to the art of telephony, such patents as underlie the receiver and the transmitter, fundamental——

Q. Isn't that a fact on telephonic appliances?

A. No, it isn't so construed by us. The fundamental patents relating to telephony are owned by the American Company. Now, when you get closer to the manufacture of the article, many incidental patents that are taken out which enter into the direct manufacturing work of the Western, they are the patents owned by the Western.

By Commissioner Geiger:

Q. Could I suggest an example there? Suggesting just as an example, there is a new device known as the cradle receiver, I believe, or Continental. Now, do you regard that as so fundamental that it would be held by the American Company, or is it held by the Western Electric?

A. I think that would be held by the American Company.

Q. You regard that as a fundamental patent?

A. Yes.

By Mr. Herbert:

Q. As a matter of fact, that patent is held by the Western, isn't it?

A. I want to qualify this, that I can only make this statement on very general terms, that the fundamental patents relating to the art of teleph-ny are held by the American Company and the others are held by the Western.

Q. The particular instance that Mr. Commissioner Gei- [fol. 5687] ger asked you about is one that is held by the Western Company?

A. I am not advised as to that particular patent.

Q. Now, do you know what amounts are involved in these two suits that are pending?

A. The claims of the people who brought the suit are very extravagant. Of course, they haven't been brought to trial.

Q. Do you now state to the Commission that in spite of the fact that this exhibit 11 purports to be an exhibit of costs actually incurred for the years as indicated and that there are now pending two suits which, as you say, contain rather extravagant claims, that there should be added an item for contingencies which was never experienced during those years?

A. As an accountant, I would say that in any costs statement I should not add an estimate of something that is going to happen in the future as representing a cost of today, but I should certainly want to be good enough business man to say that after I had taken all my costs and compared them with the revenues, that I realized, that I would take into consideration before I considered whether there was a profit or not, whether anything I had done in the past, any act of mine in the past, or any situation now pending involved a possibility of a further payment on my

part in the future before I arrived at the real story as to whether I had made any money or not. Now, we have had contingencies in the past, we have had a number of suits in the past, the Fessender suits, and——

Q. The costs of those suits are in these figures, are they not?

A. The costs on the past suits are in these figures, yes, sir, but if we should have as much of a damage against us [fol. 5688] of $10,000,000, they wouldn't necessarily go into these, we would include the cost in the year in which it arose, but the fact must be recognized when you have 11,000 patents in the picture, you have got a lot of questions pending that may come up for decision in the future. A great many people are interested in those patents and whether you have infringed their particular patents or devices.

Q. When do you, as comptroller of a telephone company, consider that the books for 1923 ought to be closed for final purposes?

A. I don't know as I get the point of your question.

Q. You have produced an exhibit No. 11 here which purports to be the costs for 1923 and subsequent years, and then you say that while these costs do not include any amounts for contingencies, they should. I am asking you when, as comptroller of the company you think that they should be accepted as final?

A. Well, I should say that so far as the license contract is concerned, and coming right down to a particular answer to your question, if there is a difference between revenues received and costs incurred, the difference cannot be considered as the final profit until all of the situations that were built into the picture say in the year 1923, have been closed, and so far as patents are concerned, they are not closed until the life of the patent is over. I wouldn't say that the books should be kept open, I am simply pointing out that you should not assume that because there was a difference of approximately $4,000,000 in 1923 between costs and revenues that that is absolutely and entirely a profit. There are others. There may be very definite items [fol. 5689] arise in the future that must be provided for, and if we should stop the license contract activities, we would have for many years a contingency hanging over us for infringement claims.

By Commissioner Geiger:

Q. May I ask whether or not when a new patent is taken out it is placed in the assets of the company at any other figure than that which it cost to develop the patent?

A. We do not capitalize our patents.

Q. Your patents, so far as the books are concerned, do not show one dollar?

A. Show nothing.

Q. Now, in 1927, I think it was, you sold to the various Bell Companies certain instruments that had theretofore belonged to the American Company, is that correct?

A. That is correct.

Q. Where did they get them, the American Company, they didn't manufacture them, did they?

A. The Western Electric Company manufactured the instruments and the American Company bought them from the Western Electric.

Q. And owned them and charged a rental to the subsidiary company up until 1928?

A. The American Company owned the instruments and the associated companies compensated the American Company through the license contract payment.

Q. Now, in 1928 you sold to each associated company those instruments that were then in use by those companies?

A. That is right.

Q. And the American Company divested itself of ownership?

A. Yes, sir.

Q. And reduced the income?

A. Yes.

Q. Now, who fixed the amount which you charged the Associated Companies for those instruments?

[fol. 5690] A. It was a matter of judgment between the buyer and the seller, and I should say definitely the executives of the American Company, of course, considered the situation and arrived at a price at which they felt those instruments should be sold.

Q. Well, do you know, or can you tell us whether or not there was a profit derived out of that sale by the American Company to the Associated Bell Companies of those instruments that they had bought from the Western Electric Company?

A. There are two answers to that question. The sale of the instruments to the associated companies and the concurrent cut in the rate of license revenue was decidedly advantageous to the companies. Now, on the other hand——

Q. To which company?

A. To the local company.

Q. To the local company?

A. Yes. Now, on the other hand, the American Company carried its investment in instruments on its books, going back many years, I think in 1912 we came under the control of the Interstate Commerce Commission's accounting system, we had a reserve of nearly 50 per cent. on those instruments, and through the years we kept the reserve at about that figure, because the instruments involved very delicate patents, and the art of telephony was developing, and it wasn't clear in those earlier years, but what somebody would come along with a patent and make obsolete the instrument, so a high depreciation reserve was just a common sense procedure. Now, as the years went on and the instrument became more definitely an article of use, why, probably the same necessity for a large depreciation reserve wasn't in the picture. But when we sold the instruments we had a good reserve on the books, and under the accounting practices of the Interstate Commerce Commission [fol. 5691] in closing out our accounts on our books, closing out our depreciation reserve, we transferred to surplus, I think approximately $14,000,000, not on profit from the associated companies at all, but as excess reserve that we had accumulated over many years in protection of our investment. However, in the computation that I have made here, in giving the benefit of the entire surplus in figuring the computation for money, that amount goes back to reduce——

Q. I understand your testimony to be that after the Associated Bell Companies bought from the American Company these instruments and became the owners of them and received a reduction in the annual payment they were better off by being released from paying to the American Company the amount that they charged them for these instruments, I understand that. But the question I addressed myself to was whether or not there was any profit made by the American Company by selling to the Bell Companies

the instruments that they had, any improper profit, or maybe we shouldn't say improper, but any profit, let's see if there is any profit.

A. No, sir.

Q. They didn't get for them more than they paid for their manufacture by the Western Electric?

A. No, we received less.

Q. Well, it is all right. Never mind going into it.

A. For instance, in the Ohio Bell I have the figures here, the sale price, which was replacement cost less 20 per cent., was $1,600,000, approximately, and those instruments cost the American Company $1,967,000.

Q. Now, will you be able, without a great deal of diffi- [fol. 5692] culty, just so as to save us the figuring on it, to give us what per cent. of the net revenue of the Ohio Company is paid to you under this license contract as against the one and one-half of the gross? I realize we can do that by taking the figure which you have on the upper righthand corner of any page and following it out, but if it is no trouble to you, you might furnish it to us.

A. I can furnish it. I haven't any Ohio figures.

Commissioner Geiger: Oh, you haven't any Ohio figures? Anything further?

By Mr. Herbert:

Q. Do I understand that the Bell Laboratories' cost is included in the first two items, "Development and Research" or "Operation and Engineering"?

A. It is included under "Development and Research."

Q. Entirely?

A. Yes, sir, but not all of the Bell Laboratories' Cost, only the portion which the American Company bears.

Q. Now, is it correct that the American Company and the Western Electric each own one-half of the Bell Laboratories?

A. That is true, if you are speaking of the capital stock outstanding.

Q. What other method of ownership would there be?

A. Well, of course the stock is owned 50 per cent. by the Western and 50 per cent. by the American Company. Then from time to time the laboratories need funds to carry on its business and its borrowings, which are also——

Q. The Bell Laboratories borrows?

A. It must, because the Bell Laboratories have at least only a very small capital stock, it must have money to de- [fol. 5693] velop its plants and its laboratories and so forth.

Q. Well, does the Bell Laboratories have any revenue?

A. Bell Laboratories does its work on a cost, a strictly cost basis, but it has a very large—the laboratories has a number of buildings and has very expensive laboratory equipment, and in order to get these it must have funds, and the funds necessary for that equipment are borrowed.

Q. Now, the American Company and the Western Electric own Bell Laboratories, at least the stock of it 50-50, is that correct?

A. That is correct.

Q. And then the Bell Laboratories does its work on a strictly cost basis?

A. Yes, sir.

Q. And as it does its work it bills the two companies jointly for one-half each?

A. Not one-half each, no; in proportion to the work done for each, in proportion to the work done for each.

Q. Well then, is there any reason why it should borrow from its parent company for funds and pay the parent company interest on those funds when it will subsequently bill the parent company for those services rendered on a cost basis?

A. It must have money to pay its payrolls, it must have money to buy its supplies. As a business proposition, it can either borrow those funds on the outside, or can borrow them from the American Company or the Western Electric, and the cost would be the same in either case.

Q. When it bills the parent company, then does it not add the cost of interest back into its bill?

A. Yes, and properly so, because if it borrowed the funds from the outside the bill to the American Company and to [fol. 5694] the Western would include the cost; and the American Company and the Western, if they furnish funds to the Bell Laboratories, are entitled to a reasonable rate of interest, 6 or whatever it is, on those funds. It is just a straight business proposition. The Bell Laboratories does not exist for proft. It serves the Western Electric and the American Company at cost.

Q. That is my point. At the end of any one year the Bell Laboratories is supposed to have all its operating

costs for the preceding year paid by either the American Telephone & Telegraph Company or the Western Electric Company?

A. That is true, but if the American Company or the Western Electric Company put money at the disposal of the Bell Laboratories, those companies are entitled to reasonable interest on that money, just the same as if they loaned it to anyone on the outside, and it is just an element of cost, but there is no profit in the transaction.

By Commissioner Geiger:

Q. By the way, just one question. You call it the American Telephone & Telegraph Company.

A. American Telephone & Telegraph.

Q. Is it engaged, to any extent, incidentally, in telegraphy, is the telegraphy incidental to the telephone?

A. There is none except our Morse business, which is very small.

Commissioner Geiger: That is all.

Redirect examination.

By Mr. Thompson:

Q. Mr. Heiss, I call your attention to the following provision of the licensee agreement between the American [fol. 5695] Telephone & Telegraph Company and the Ohio Bell Telephone Company, which has been identified as Exhibit No. 9 in this case. It appears on page 2 of that exhibit. "The licensee shall be protected and saved harmless by the licensor from all actions or suits charging infringement of patents arising from the use of any telephones or telephonic devices, apparatus, methods or systems which the licensor may recommend." Is that same provision carried into the license agreements between the American Company and the other Bell Associated Companies?

A. Yes.

Q. What is the fact as to whether that is substantially the same provision as was contained in the 1919 and prior license agreements between the American Company and its associated companies?

A. To the best of my knowledge it is the same provision.

Q. Without reference to whether the wording is identical, it is substantially similar?

A. Substantially similar, yes.

Q. Now, without reference to whether the particular patent is owned by the American Telephone & Telegraph Company or by the Western Electric, when you were testifying about taking into consideration possible contingencies, did you have in mind this provision of the license agreements, as a result of which the American Company had indemnified the Associated Companies not merely as against patents which it owned, but against patents with respect to telephones or telephonic devices, apparatus, methods or systems which it had recommended to the licensee companies?

A. That is the fact.

Q. The Western Electric Company, I believe you said, is [fol. 5696] not a licensee company under this license agreement?

A. It is not.

Q. I does not pay to the American Telephone & Telegraph Company any sum on account of license services and it does not receive those license services from the American Company, is that correct?

A. It does not pay any amount for services, since it does not receive any services.

Q. Does the Graybar Company receive any services from the American Telephone & Telegraph Company under this license agreement?

A. It does not.

Q. With respect to the Bell Telephone Laboratories, I wish you would first state to the Commission what the amount of the capital stock of that company is.

A. $100,000 par value.

Q. How is that owned?

A. 50,000 by the American Telephone & Telegraph Company and 50,000 by the Western Electric Company. May I check that, please?

Q. Certainly.

A. That is a fact.

Q. Does the Bell Telephone Laboratories conduct and has it in the past conducted experimental work and laboratory work for the Western Electric Company?

A. It does such work.

Q. Who pays for that work?

A. Western Electric Company.

Q. Is any part of that work paid for by the Western Electric Company charged into the costs of rendering services under the license contract?

A. No.

Q. Can you give me not an exact figure, but an approximation as to the amount of work performed by the Bell Telephone Laboratories for the Western Electric Company and for the American Telephone & Telegraph Company?

[fol. 5697] A. I can give it to you roughly in percentages.

Q. That is entirely sufficient, Mr. Heiss.

A. About from 70 to 80 per cent. of the work of the laboratories is performed on account of the Western Electric Company. The remainder is for the American Company.

Q. As I understand, those are approximately correct, and yet you are not attempting to give the exact or accurate figure, is that true?

A. That is true.

Q. Do those amounts vary from year to year?

A. I should say they may vary between 5 or 10 per cent.

Q. Now, if I understand you correctly, there is only $100,000 capital stock of the Bell Telephone Laboratories which was furnished equally or in equal amounts by the Western Electric and the American Company?

A. That is right.

Q. Now, where does the Bell Telephone Laboratories obtain the remaining sums for carrying on its business?

Mr. Herbert: I don't want to interrupt, but I thought we went all over that.

The Witness: It borrows these funds from the American Company and from the Western Electric Company.

Q. Now, does it borrow in equal amounts from the two companies?

A. In order to keep the equities entirely proper as between the companies, all borrowings bear a relationship to the work done. That is, if the work of the laboratories is 25 per cent. for the American Company, we try to keep the amount of the borrowings from the company at 25 per cent. of the total borrowings of the laboratories.

Q. And, therefore, not in equal amounts, but in amounts proportionate to the work actually done?

A. That is right.

[fol. 5698] Q. All right. Now, I have just a further question or two. Does the Bell Telephone Laboratories have a large laboratory and a large amount of equipment?

A. It does.

Q. Running into costs of millions of dollars?

A. Yes, sir.

Q. And is it a fact that instead of financing that permanently by fixed investments it is financed by loans from the two companies for which it does work?

A. That is right.

Q. And included in the cost of the work done for the Western Electric and for the American Telephone & Telegraph Company there is the interest on this borrowed money?

A. That is right.

Q. And what difference does that make, Mr. Heiss, in the actual cost of the work so done from what it would have been if the Bell Telephone Laboratories had permanently financed itself, either by selling stock or by a bond issue or otherwise?

A. I can see that it makes no difference. The situation is just the same, would be the same under either condition of organization or of conducting its affairs.

Q. And what is the fact as to whether the business of the Bell Telephone Laboratories is conducted so that the American Company and the Western Electric Company pay the actual cost of the work done for them, including an interest charge on the money advanced by the two companies?

A. That is the fact.

Recross-examination.

By Mr. Herbert:

Q. Will you explain what advantage accrues to the [fol. 5699] American Company by jointly owning the Bell Laboratories instead of owning it completely itself?

A. Well, inasmuch as it does work for both of these companies, a joint arrangement helps carry out the cost factor. That is, if both of these companies have an interest in the laboratories and the laboratories is altogether a non-profit organization, if they both have an interest in the company proportionate to the work which they expect from it, you can carry out this non-profit idea in a very good way.

Q. Well, to keep an account of all of these transactions requires an expense, does it not, additional auditing, additional accounting?

A. No, just requires an ordinary accounting system, no more complicated than if you had a single company and were billing out services.

Q. You mean if the Western Electric owned the Bell Laboratories exclusively and the Bell Laboratories borrowed exclusively from the Western Electric and billed the Western Electric for their work at cost and then in addition to that billed the American Company for their work at cost, that there would be just as much bookkeeping and accounting as there is under the present arrangement?

A. Yes, Mr. Herbert, it wouldn't make any difference in the accounting, any perceptible difference in the accounting expense.

Q. Then you have no reason to offer for this joint ownership other than it just happened?

A. No, I said that it was in order to facilitate a better carrying out of the idea that the Bell Laboratories should function at cost.

Q. Well then, why shouldn't the American Company only own 25 per cent. of the Bell Laboratories?

[fol. 5700] A. I don't see why it should own 25 and not 50——

Q. They are doing approximately 25 per cent. of their work for the American Company, are they not?

A. The hundred thousand of stock is just nominal holding stock, it pays no dividends, and both companies have an interest in it, both companies have an interest in the laboratories, and it is a joint-controlled proposition.

Q. Then you have no reason to offer why it developed up on a 50-50 basis as an original stock——

A. No, it was just considered a proper arrangement to have the Western own 50 per cent. and the American Company 50. Nothing special can be said regarding it.

Q. Turning to your exhibit No. 10, you do not offer this instrument maintenance item of $3,219,594 as anything but the figures furnished your department as the cost of that maintenance, I mean, you are not here testifying that that is the reasonable or fair cost of that maintenance for that year 1923, are you?

A. Oh, yes, that is the amount we paid for the work, that is the amount the work cost us.

Q. That is the amount your books show they cost you, is that right?

A. Why, I presume our books are correct.

Q. That is what I say, you are not testifying to the fact as to whether or not that is a reasonable cost for that instrument maintenance, are you?

A. I am simply giving you the amount appearing on our books, which I said this morning represented the repair bills which we paid on the instruments, plus depreciation accrued on our investment.

Q. That represents about 11 per cent. of your investment as of that year, does it not?

A. You mean the instruments?

[fol. 5701] Q. In the instruments, yes. I believe you testified that item was 31,329,000?

A. Yes, sir.

Q. Perhaps not 11 per cent., but in excess of 10 per cent.?

A. Well, I don't want to take time, but you figure in direct cost for the instrument maintenance and depreciation, $3,219,000, you testified that the investment in instruments at that time was 31,329,000?

A. I misunderstood your question. I thought you asked whether the instrument investment was 10 per cent. of our total investment.

Q. No, I said your instrument maintenance as it appears by this exhibit is in excess of 10 per cent. of your instrument investment as to the same time?

A. I should say it is approximately 10 per cent. yes, including depreciation.

Q. Now then, the large item of cost of carrying your investment in physical property was due mainly to your investment in instruments, was it not?

A. Yes, and other things.

Q. Because in the later years for that same item, after you had ceased to own those instruments, that item shrinks to a comparatively insignificant amount?

A. In 1923 in addition to the instruments there was the investment in real estate of $11,295,095.

Q. Well then, one-fourth of your total investment was in something additional to instruments, approximately?

A. Yes, a little more than one-fourth.

Q. Approximately 70 per cent. then of your investment in 1923 was in instruments?

A. That is right.

Q. Now, you say that there is no duplication in this Exhibit 10 as between instrument maintenance and the cost of carrying investment?

A. There is none.

[fol. 5702] Q. Will you explain how that cost of carrying investment as related to instruments was incurred?

A. We had, as I have said, $31,329,013 actual outlay of money in instruments, and the capital charges on that amount for the year—the cost of money used in the business that year was 6.87 per cent. Multiplying $31,329,013 by 6.87 per cent. you get your cost of carrying investment.

Q. Now just one more question and I am through. This deduction of $1,000,000 for the holding company aspect of these costs, by whom was that amount fixed, yourself?

A. Fixed by me and in consultation with other officers of the company who are familiar with our business.

Q. That is then purely a judgment figure, is it not, of yourself in conjunction with the executive officers of the company?

A. It is a judgment figure based upon our knowledge of the facts and the kind of work that is done in connection with securities. It is, in my opinion, very reasonable.

* * * * * * *

[fol. 5703] Ohio Bell No. 3307

Wednesday Morning Session

June 17, 1931.

And thereupon the further hearing of this cause was resumed, pursuant to adjournment, before Honorables E. J. Hopple, Chairman, John W. Bricker and Frank W. Geiger, Public Utilities Commissioners, on Wednesday, June 17, 1931.

Appearances:

Messrs. Karl E. Burr and W. H. Thompson, on behalf of the Ohio Bell Telephone Company.

Hon. Gilbert Bettman, Attorney General, and Hon. L. F. Laylin, Assistant Attorney General, on behalf of the State of Ohio.

Hon. Thomas J. Herbert, Special Counsel, on behalf of the Public Utilities Commission of Ohio.

R. H. GREGORY, recalled, continued his testiomny as follows:

Examined by Mr. Thompson:

Q. Mr. Gregory, were there one or two matters in your testimony that you desire to correct or supplement?

A. Yes, sir.

Q. I wish you would do that before Mr. Herbert starts his cross-examination.

A. On Page 4939, the question was asked as to the Division of each dollar of sales by the Western Electric to the Bell Associated Companies as between labor costs, material [fol. 5704] costs, taxes, profits and so forth. The answer that was given was applied to the total business of the company, and the answer to the question itself should be, instead of the figures as shown, 42.2 for labor, should be 41.8 cents. The taxes, there is no change. For material, from 53.8 cents to 54.2, 54.2 being the correct figure, and no change on the profit item.

On Page 4960, the transcript states in the sixth line two items, 1,400,000 and a million and a quarter.

By Mr. Burr:

Q. What page is that, Mr. Gregory?

A. 4960. That should be two million and a quarter. It is the sixth line after the figures 1,400,000.

And page 4976, in the second question, the statement is made, "Your allocation of investment for the purpose of preparing these two exhibits is based upon your cost of sales."; that should read, instead of "Cost of sales", "The shop cost of sales." Very little difference in the net results, but for accuracy's sake, I think the record should be corrected.

By Mr. Herbert:

Q. In correcting the answer, you just insert the word "Shop" before "cost"?

A. That is right.

By Mr. Burr:

Q. Well, the question is, "Well then, your allocation of investment for the purpose of preparing these two exhibits

is based upon your shop cost of sales for each class of article in those years, in general?"

A. That is right.

Q. Then your answer is, "That is right"?

A. That is right.

Q. And your answer, "That is right" goes to the question with the word "shop" in before the word "cost"?

[fol. 5705] A. That is right.

By Mr. Herbert:

Q. Referring back to the correction you made on Page 4939, do I understand you correctly to mean that the answer as given on that page applies to the total sales of Bell and non-Bell combined?

A. Yes, sir.

Q. And that as corrected, you substitute 41.8 cents for labor costs on Bell?

A. That is right.

Q. And 54.2 cents for material cost on Bell products?

A. That is right. It is .4 of a cent difference.

Mr. Burr: At the last hearing, Mr. Gregory, you were asked for the average investment, non-Bell business, for the years 1916 to 1930, inclusive. That you have furnished to me and I in turn have delivered it to the Commission with the understanding reached at the last hearing that it would be marked for identification Gregory Exhibit Number 6 and offered and admitted in evidence. I make that note here, Your Honors, so that the record may show that that exhibit actually has been introduced and delivered to the Commission and is in the Commission's files.

Cross-examination.

By Mr. Herbert:

Q. Mr. Gregory, have you the data available to prepare an exhibit comparable to Gregory Exhibit Number 6, covering the investment in Bell business as shown merely in a percentage item on Gregory Exhibit 1?

A. I have.

Q. I mean by that, the only available information we have from the exhibits as to the average investment in Bell [fol. 5706] business is the per cent. of net profit and the dollar amount of net profit, so that we have to compute the average investment from the Exhibit 1. Now, can you fur-

nish us with an exhibit comparable to Exhibit Number 6, showing plant, merchandise, receivables, cash, total assets, payables and average investment on the Bell business for those same years?

A. I will do so.

Q. Now, do the books of the Western Electric separate the sales to the Bell system from the non-Bell system, that is, separate Bell sales from non-Bell sales?

A. We have reports that show that information.

Q. And how are those reports made, do they bear a form number?

A. Yes, they have a form number.

Q. How often are they made, monthly?

A. Monthly, yes, sir.

Q. That is, you receive a report from the various manufacturing departments which is compiled and tabulated in your office monthly showing the total Bell and non-Bell sales, respectively, for each preceding month?

A. Yes, sir; we get it not only from the manufacturing department, but from all distributing points where billing is done to our customers.

Q. Those figures that you receive in those reports merely include the sales of equipment to the Bell or non-Bell concerns?

A. It shows in dollar value the sales.

Q. And sales only?

A. And sales only.

Q. Those reports wouldn't include any repair items?

A. They would include billing for repair items, that is, the amount that had been billed to our customers.

Q. Then you treat repairs as a part of sales?

[fol. 5707] A. Yes, sir.

Q. And your Exhibit 1 showing the total sales for each of those years and the total cost of sales includes all repairs and the total cost of all those repairs?

A. That is right.

Q. Then repairs are included in Exhibits 5, 6 and 7, as well, is that correct?

A. Insofar as there are any repairs. Most of the repair business falls to the Associate Companies; very little in connection with non-Bell business.

Q. Is it included in Exhibit 7, that is, showing the volume of sales to the Ohio Bell Company by years?

A. Yes, sir.

Q. Have you the figures separated for repairs by years in those same years, '16 to '30?

A. I haven't that with me. That can be obtained.

Q. That is, you can furnish us with a statement showing which portion of each item in the sales column on Exhibit 1 represents repairs?

A. Yes, sir.

Q. And have you the data whereby you know the total cost of those repairs for the same years?

A. Yes, sir.

Q. And could you obtain it for the Ohio Bell Company alone, that is, to amplify Exhibit 7, in the same manner?

A. Yes, sir.

Mr. Thompson: Is that a request, Mr. Herbert? What I am trying to do is to note your requests that you intend to make for information.

Mr. Herbert: That is just what I have in mind.

Mr. Thompson: So that when we come to some appropriate place, we may either say that we are willing to furnish the information or take up with the Commission the [fol. 5708] question of its relevancy.

Mr. Herbert: That is what I am just making a memorandum of it for. I want to find out if it is easily ascertainable and then I will make the request.

Mr. Burr: Is your request limited to Ohio Bell sales?

Mr. Thompson: As far as 7 is concerned, yes, but on the other, no. He wanted, as I understood it, the amount included in Exhibit 1 under sales.

Mr. Herbert: Sales, total cost of sales.

Mr. Thompson: On account of repairs.

Mr. Herbert: Divided into two separate times indicating the repairs. He has testified that he has included all repairs in the sales columns.

Mr. Thompson: That is right.

Mr. Herbert: And all cost of repairs in the cost of sales column.

Mr. Thompson: You want those segregated?

Mr. Herbert: We ask for a separation of those items in each particular year.

By Mr. Herbert:

Q. Now, do the figures as they appear in the sales column in Exhibits 1 and 5 and 7, covering total Bell sales in one,

total non-Bell sales in 5 and Ohio Bell Sales in 7, do those include the gross or the net sales?

A. They are the net sales.

Q. They are compiled after all returns are accounted for?

A. That is right.

Q. Now, just in order to get the machinery straightened out in our mind, you get monthly reports on the total sales, do you not?

A. Yes, sir.

[fol. 5709] Q. And do those reports themselves show the returns, or do they come in later and are adjustments made later?

A. That comes in as a separate report, but the original report, the monthly report, it shows the net figures. We don't know when we receive the monthly report by that report itself what the returns are. That is, those returns are figured locally and deducted locally. But there would be a separate report later on which would indicate the amount of the returns which have been deducted in the original report.

Q. Don't returns come in on subsequent months?

A. Oh, the returns in the month of May, for instance, that would get on to the books, for which credit had been rendered, would be deducted from the sales, although there may be some return shipments made in May which would not be credited until June, then the June statement of sales would show the credit for the May shipments which were credited in June.

Q. Do you recall approximately, to return to the repair item for a moment, what your average volume of repairs has been in the last year or two?

A. I wouldn't be able to testify to that.

Q. I just wanted an approximation, if you had it in your mind is all, not to bind you at all?

A. I haven't got it in my mind, Mr. Herbert.

Q. Now, can you explain to us the basis of repair charges, is it a time and material basis, or do you have fixed charges for certain types of repairs similar to the Ford Motor System that maintains in all Ford garages?

A. Our basis of charges for repairs is to get back our cost with a fair return upon our money invested in those repairs.

[fol. 5710] Q. I mean by that——

A. If there are new parts that are used, of course, we would get the profit that would accrue to a sale of new

parts, regardless of whether it went into a repair part or repaired apparatus or new apparatus, but there is no attempt to make say the usual rate of profit on new apparatus on repair apparatus.

Q. Maybe you missed my question. Do you have a fixed scale of charg[illegible] for certain classes of repair, or is every repair bill a computed bill on that job?

A. It is no fixed scale.

Q. Then every bill that is sent to one of the Associated Companies for repairs is computed for that particular repair job?

A. It is based on the extent of the work that is necessary in order to make the repair. That is, in other words, it is an individual transaction.

Q. Would you say it was a computed bill in each instance or not?

A. Well, there may be some averages for repairs of a similar nature, so that we wouldn't take every single little item that came in and figure the repair on that particular item, but repairs of a similar nature,——

Q. They would carry a fixed charge?

A. An average rate of cost, which from past experience would check up with the actual figures.

Q. Then you have no particularly definite system in determining repair bills to the Associated Companies; in some instances, there is an average charge made, and in other instances, it is a computed bill; is that correct?

A. It depends on the kind of repair. You see, we can't tell when the article comes back whether it is going to be an [fol. 5711] article which needs to have major repair or a minor repair. If it is a minor repair, the work could be done locally, that is, perhaps all it needs is a little polishing up. If it is a major repair, it may have to be returned to the factory at Hawthorne, it may have to go through the regular shop.

Q. Would you say that my statement was correct then that in some instances there is an average fixed charge made and in other instances, it is a computed bill?

A. I think that is fair.

Q. And when it is a computed bill, it is on a material and a time basis?

A. Yes, on the basis of material and time. On new apparatus, we would get the regular amount of profit.

Q. As I say, there is a material charge?

A. Yes.

Q. And a labor charge based on a time basis?

A. Yes, sir.

Q. Do you have any fixed percentage to apply to that to cover overhead?

A. That varies in the various localities where the work is done. No, there is no fixed percentage.

Q. Now, referring again to Exhibit 1, do your sales columns include the sales to the American Company?

A. The American Telephone & Telegraph Company?

Q. Yes.

A. Yes, sir.

Q. So that that column includes the sale to every subsidiary Associated Bell Telephone Company and the American Telephone & Telegraph Company, that also includes, I believe, the sales to the Cincinnati and the New England Bell, does it not?

A. You mean the Southern New England?

Q. Yes.

A. Yes.

Q. The last two companies are not American controlled [fol. 5712] companies?

A. They are less than 50 per cent. owned.

Q. By the American Company?

A. By the American Company.

Q. But other than those two companies, this column includes sales to all the Associated Companies and the American Telephone & Telegraph Company?

A. Yes, and in the earlier years it includes sales to the Western Union Telegraph Company when that was closely allied with the American Telephone & Telegraph Company.

Q. How late did that continue?

A. Through 1922.

Mr. Thompson: Will you permit an interruption, Mr. Herbert?

Mr. Herbert: Surely.

Mr. Thompson: I want to get it straight in my mind. As I understand, this column of sales does include sales made to the Southern New England Telephone Company and the Cincinnati and Suburban Bell Telephone Company?

The Witness: Oh, yes.

By Mr. Herbert:

Q. Do those two companies, which I believe you say are less than 50 per cent owned by the A. T. & T., they have the same license contract with the A. T. & T. Company?

A. So I understand.

Q. As the Associated Companies?

A. So I understand.

Q. Now then, on the sales to the American Company, what is the basis of charge for material or equipment, do you have one list of prices?

A. Yes, sir, to the Associated Companies.

Q. That includes the American Company?

A. Yes, sir.

Q. So that the American Company pays identically the same price for any article that the Ohio Bell Company would pay?

A. Yes, sir.

[fol. 5713] Q. Has that condition obtained all the way back to 1916?

A. Yes, sir.

Q. Now, what was the basis on which the American Company bought telephone instruments, receivers and desk sets, induction coils, and the transmitters up until 1927?

A. That was on the cost plus basis.

Q. Was that a different basis than they bought other equipment from the Western?

A. Yes, sir.

Q. Under what circumstances was that arrangement entered into between A. T. & T. and Western?

A. You refer to instruments?

Q. Yes.

A. That basis of cost plus runs way back to the 1882 contract.

Q. And that contract, 1882 contract is between the Western Electric and A. T. & T.?

A. Yes, sir.

Q. There has been amendments to that?

A. Yes, sir.

Q. Did that cost plus basis only apply to receivers and transmitters and induction coils?

A. Yes, sir.

Q. Nothing else?

A. That is right.

Q. Have you a copy of that 1882 contract with the amendments made since?

A. It is available. I have not got it here.

Q. It could be furnished?

A. Yes.

Mr. Thompson: Is that a request?

Mr. Herbert: Yes, sir.

Q. Now, does your sales column in Exhibit 1 include the sales of telephone instruments to the American Company through those years, 1916 to 1927, inclusive?

A. Yes, sir.

Q. And can you furnish us the data as to the volume of [fol. 5714] those sales, both in numbers and in dollars for those years?

A. I am sure we can put it in dollars. I am not so sure about quantities.

Mr. Thompson: Is that a request?

Mr. Herbert: I would like it in dollars and quantities of instruments, if possible, Mr. Thompson.

Mr. Thompson: How much labor is involved in trying to arrive at the number of instruments sold, Mr. Gregory?

The Witness: I wouldn't be able to say offhand, Mr. Thompson, because we would have to examine the records and see what the conditions of the records were back in those years.

By Mr. Thompson:

Q. You already have easily available the dollar value of these sales by years?

A. For a part of this period.

Q. From 1916 down?

A. Now, I am not sure about those earlier years, whether we have got them or not. I know that we have that information for, say, seven or eight years. But whether——

Q. I am simply trying to just get what the labor element involved is. Do you mean seven or eight years prior to '30——

A. Prior to 1928 when they changed. That is, I think that we may say that we have, I would say that we have the information probably in statement form back to 1920.

Mr. Thompson: Would that be satisfactory for your purpose, Mr. Herbert, if it went back to '20, and it was in dol-

lar sales? I think it would probably involve a considerable effort to pick out the number of instruments from the records, and also it would involve some substantial work to go back of '20.

[fol. 5715] Mr. Herbert: Maybe we could work this out another way.

By Mr. Herbert:

Q. Do you have personally any idea, Mr. Gregory, what the average life of those instruments was?

A. Now, I wouldn't be able to say that, Mr. Herbert.

Q. Well, I would like it as far back as your records show it then, down to and including 1916. If you don't have that data and it is not available, that is different. You have underlying data whereby you obtained the figure of $73,915,000.00 for sales for 1916, haven't you?

A. Yes, sir.

Q. That somewhere in your records is still broken down to show in fairly sizeable portions how that total is made up, isn't it?

A. Yes, sir.

Q. Wouldn't that show the sales to the A. T. & T. for 1916?

A. As a total.

Q. And you mean that your records would not show what proportion of that total was sold to A. T. & T. under a cost plus 20 per cent contract and what portion was told to A. T. & T. at an Associated Bell List price?

A. It may be that the record is there, Mr. Herbert. I am just simply saying that I have no definite knowledge right here at this time just in what condition those records are ten or fifteen years ago.

Q. Do you have the unit price of those instruments for those years? You sold those instruments to nobody but the A. T. & T. Company?

A. That is correct.

Q. During the period shown in your Exhibit 1 from 1916 down to and including 1927?

A. That is right.

Q. Other than your sales to A. T. & T. you had no buying except what your export department or your independent supply department handled in this country, is that correct?

[fol. 5716] A. That is correct.

Q. Now, do you have the prices of those instruments for those years, both to A. T. & T. and to your independent——

A. I think we have, although I can't say from direct knowledge as I have never seen those price lists.

Q. Could you furnish that, if your data is not complete, back to 1916 on the dollar sales?

A. I could if it is available, yes, sir.

Q. And couldn't you determine approximately the quantity, having those prices?

A. If we had the dollar sales.

Q. That is what I mean?

A. Yes.

Q. Well, could you furnish us with a statement showing the sales of telephone instruments, receivers, transmitters and induction coils to A. T. & T. Company in dollars and in quantities for the years 1916 to 1927, inclusive, so that we may determine what portion that represents in this total sales column as it appears on Exhibit 1? That is my request. Now, if you have it, I would like it, and if you haven't it, we will have to treat it some other way?

A. Well, if it is available, we can furnish it.

Q. In addition to that, the price list of those instruments by years, average price, I don't know whether your prices vary much during a year, but if they do, an average price for a year for the instrument to the American Company and to the Independent Company from 1916 down to and including 1927. The American Company goes out of that picture in 1928, and I assume that at that time a price was established for the Associated Companies?

A. That is right.

Mr. Thompson: And your request includes the prices to [fol. 5717] the Associated Companies subsequent to January 1st, '28?

Mr. Herbert: Right.

Mr. Thompson: Well, now, Mr. Herbert, just so we will understand you, suppose when Mr. Gregory comes to investigate that he finds that in these earlier years, it is a considerable undertaking and involves a substantial amount of time to try to get at the quantities of these instruments, do I understand that your request is broad enough to include an effort to go back to our books and segregate this information for the purpose of finding the quantities of

instruments sold in the earlier years if it involves a substantial amount of work?

Mr. Herbert: That is a difficult question to answer, Mr. Thompson.

Mr. Thompson: I appreciate that.

Mr. Herbert: Mr. Gregory has stated that there is underlying data whereby this figure for each of those years is compiled. Now, I assume that obviously where they were selling to the American Company under two bases, they would have those sales segregated, one on a cost plus 20 per cent basis and the other on an associated list price basis, and he obviously has each of the sales to the separate companies back to and including 1916, as evidenced by his exhibit 7.

Mr. Thompson: Well, that information is certainly available, I don't doubt that.

The Witness: Oh, yes.

Mr. Herbert: And I am simply seeking it as a check.

By Mr. Herbert:

Q. Now, at the risk of re-stating it, then, I understand that other than telephone instruments, the sales of all other [fol. 5718] apparatus by Western to the A. T. & T. was not on a cost plus 20 per cent basis as provided in the 1882 contract?

A. That is right.

Mr. Burr: Read that question.

(Question read.)

Mr. Burr: You don't mean that it was sold contrary to the terms of the contract?

Mr. Herbert: No.

Q. Then the cost plus 20 per cent basis which was provided in the 1882 contract applied only to telephone instruments?

A. That is right.

Mr. Thompson: That is the correct statement, as I understand it.

The Witness: Yes.

Q. Now then, how were sales to the non-Bell customers treated in this period, 1916 to 1930?

A. How were they treated?

Q. Well, by that, I mean, how were they handled? Will

you describe the method of sales-handling to non-Bell Companies? You had a manufacturing department, didn't you?

A. Yes, sir.

Q. Maybe you don't get the import of my question?

A. I don't think I do, Mr. Herbert.

Q. And you turned those goods as they were manufactured from the manufacturing department over to another department, didn't you?

A. Yes, sir.

Q. And what was that department called?

A. That was turned over to the merchandise department, and the department that handled this non-Bell business we called in those earlier days the supply department. [fol. 5719] Q. That is what I wanted to get at. Now, that supply department as such existed, commencing for our purposes in 1916, down to what date?

A. Down to through 1925.

Q. Now, does this sales column on Exhibit 5 represent the sales in dollars to the supply department?

A. No, sir, it represents sales in dollars to the customer.

Q. By the supply department?

A. By the company, which is by the supply department of the company.

Q. In other words, there was no book entry, any dollar entry I mean, when the goods went from the manufacturing department to the supply department; these figures of sales as they appear in Exhibit Number 5 are the net sales by the Supply Department to independent non-Bell Companies?

A. Yes, sir, and to the general supply trade.

Q. Which included what?

A. Oh, contractors, electrical supply people, jobbers, railroads, United States Government, the general trade which would naturally purchase electrical supplies.

Q. And that method continued on all domestic sales within the United States; that is all your supply department covered, wasn't it?

A. Not only to domestic, but also to foreign business in a good many of those years, in all of those years.

Q. Then Exhibit 5, Column 1, sales, includes the sales to foreign countries?

A. To any export customers of the Western Electric Company during those years.

Q. I don't want to get too far away from this point, but

by that, do you mean the sales of International Western Electric or sales of Western Electric to foreign companies?

A. It is the sales of the Western Electric Company to foreign companies.

[fol. 5720] Q. Then this Exhibit 5 doesn't contain any sales of International Western Electric?

A. Oh, no, sir.

Q. Or any of the other subsidiaries of the Western Electric Company in foreign countries?

A. No, sir.

Q. That was a comparatively small part of your supply department business in those years, wasn't it?

A. Yes, sir.

Q. Because as a matter of fact, your subsidiary organizations in the other countries handled the volume of sales of Western Electric products in all these countries, didn't they?

A. Yes, sir, except to South America. There we dealt direct with the company, South America and Central America, in this hemisphere.

Q. The majority of sales made in those countries, if I get this correctly, were made through your supply department as it existed down to 1925?

A. Yes, sir.

Q. And not by any of your subsidiary companies?

A. No, sir.

Q. And they appear in this sales column on Exhibit 5?

A. Yes, sir.

Mr. Burr: You now are referring to South and Central America?

Mr. Herbert: Right.

Q. Then it was in 1925 that the Graybar Company was created?

A. Yes, sir.

Q. As a matter of fact, that process consisted of taking your supply department, ascertaining its then value according to your books and incorporating that, lopping it off of the Western Electric Company and setting it up as a separate corporation, isn't that correct?

A. That is correct.

[fol. 5721] Q. Now then, when did that company start to do business as such?

A. Beginning of 1926.

Q. The fiscal year starting in 1926?

A. January 1st, 1926.

Q. Now then, in 1926, that is where your sales dropped off from 71,000,000 to 15,900,000?

A. That is right.

Q. Was that due mainly to the creation of the Graybar Corporation?

A. Yes, sir.

Q. Well, did the price of the articles sold to the non-Bell Companies, were all those prices reduced when you sold them to Graybar?

A. I don't believe I understand exactly.

Q. The quantities of products, Western Electric Telephonic products sold to non-Bell Companies was not appreciably different in 1926 than it was in 1925, was it?

A. You mean now the sales in '26 being made by the Graybar Company, whether the prices made by the Graybar Company were less than the prices made by the Western Electric Company prior to the formation of the Graybar, is that the question?

Q. I hadn't come to that. The volume in quantity of articles sold by your company for ultimate consumption by non-Bell Companies in the United States wasn't appreciably different in 1926 than it was in 1925, was it?

A. I don't carry in mind the Graybar sales in that year, but the only difference there would be the difference which would result from the difference in business conditions in '26 from that in '25.

Mr. Burr: Difference in demand?

The Witness: Yes, in demand.

Q. Well, your average investment as appears on Exhibit [fol. 5722] 6 dropped from 21,000,000 to 12,000,000?

A. That is right.

Q. As a result mainly of the organization of Graybar Company, wasn't it?

A. That is correct.

Q. Now that nine million represented no manufacturing plant, did it?

A. No, sir.

Q. Entirely distribution?

A. Yes, sir.

Q. Have you a statement showing the investment separated into identifiable items that went into the Graybar

Company at the time it was separated from the Western in 1925?

Mr. Thompson: You mean by that a balance sheet of Graybar?

Mr. Herbert: I mean more than that. I would like to know, perhaps a balance sheet would disclose it, I would like to know what of that is real estate, what of that is—just how that nine million was made up.

Mr. Thompson: For 1926?

Mr. Herbert: At the inception of the company.

Mr. Thompson: That is what I mean, January 1st, 1926, was it, Mr. Gregory?

The Witness, Yes, sir.

Q. Do you recall offhand what proportion of that nine million was merchandise?

A. Something over four millions of dollars.

Q. How was that merchandise value determined, determined on the price of the material to the independent purchaser?

A. No, sir, it was determined on the basis of the cost to the Western Electric Company.

Q. In other words, that four million dollars isn't reflected anywhere in Exhibit Number 5, is it?

A. Exhibit Number 5?

[fol. 5723] Q. Yes, sir.

A. The only way it could be reflected—I don't see how it could be reflected at all in that statement, if I get your question.

Q. That is what I say, it isn't reflected anywhere in Exhibit Number 5?

A. No, sir.

Mr. Thompson: Mr. Herbert, before we get away from this price, do I understand that all the requests you have made with respect to Graybar is for a balance sheet as of the date on which it commenced operations?

Mr. Herbert: At this time, yes.

Q. Now, can you furnish us, referring to Exhibit 5, again, a statement showing the breakdown of this $71,000,000.00 of sales, not necessarily down to the last detail, but the approximate destination or buyer of that property, and in the volumes or the dollar proportions, for 1925 and 1926? In

other words, Mr. Gregory, I am trying to ascertain the cause of the difference between a 71,000,000 dollar year in 1925 before the creation of Graybar and a 15,000,000 dollar year in 1926 after the creation of Graybar?

A. You don't mean by "buyer" every single buyer?

Q. That is just the point, I didn't mean to make it that detailed?

A. No, because that would mean thirty thousand different buyers.

Q. Classifications of buyers would suffice?

A. We can get that, we have that information available.

Q. You have testified, I believe, that that seventy-one million represents the total sales made by your sales department?

A. Yes, sir, to non-Bell customers.

Q. By your supply department, I mean. And that supply [fol. 5724] department being abolished at the close of that year, your total sales for 1926, including what you sold to Graybar, was slightly less than sixteen million?

A. Yes. Of course, in 1926, we have other distributors besides Graybar Electric, we sold to the Northern Electric and International Telephone & Telegraph Company. All those sales figures would be in the 1926 figures.

Q. I am about to come to that. But does your 1926 figure include your sales to Graybar?

A. Yes, sir.

Q. But the 1926 figure does not include the sales by Graybar, does it?

A. No, sir.

Q. That you treat how?

A. Sales by Graybar are shown in their sales statements; that is, sales by Graybar are Graybar Company sales to their customers.

Q. And the Western Electric owned Graybar completely until what date?

A. Well, for the next three years, through 1928.

Q. The transfer to the Graybar employees took place effective January 1st, 1929?

A. That is correct.

Q. And for those three years, none of your exhibits reflect the profit made by Graybar in the sales of products to non-Bell companies, Western Electric products to non-Bell Companies?

A. That is correct, but it represents the profits that the

Western Electric Company made on its sales of its manufactures to Graybar Company.

Q. Graybar functioned identically the same in those three years that your supply department had prior to those three years except for the fact that there was a corporate entity given to that supply department, isn't that correct?

A. It functioned as the supply department.

[fol. 5725] Q. And Western Electric owned it exclusively?

A. Yes, sir. But the Western Electric Company, beginning with 1926, charged the Graybar Electric Company for the manufactured goods which they bought from the Western Electric Company a price which would give the Western Electric Company a profit, a price which was at least as high as the prices to the Associated Companies. Prior to that time——

Q. It was comparable to the price to the Associated Companies, was it not?

A. Either equal to or higher for the same amount, in no case lower.

Q. Were the Graybar prices to the non-Bell Companies any different than your supply department prices other than any other price change that might occur for reasons other than that?

A. They would get what the traffic would bear.

Q. That doesn't answer my question. In 1928, were the Graybar prices to the non-Bell customers any different than they have been in 1927 when the supply department sold the goods direct?

A. Why, the prices are never the same in two succeeding years, Mr. Herbert.

Q. I am saying for any other reason than the mere setup of the Graybar Company?

A. The supply department in 1925 endeavored to get as good a price as they could for sales of Western Electric manufactures to non-Bell customers. The Graybar Company did exactly the same thing in 1926; that is, the policy was to get as good a price as we could in each year.

And thereupon a recess was taken until 1:00 o'clock P. M. of the same day, Wednesday, June 17, 1931.

[fol. 5726] Wednesday Afternoon Session

June 17, 1931.

And also R. H. GREGORY, resuming the stand, continued his testimony as follows:

Cross-examined by Mr. Herbert:

Q. Mr. Gregory, just prior to the recess before lunch, we were discussing the difference in volume of sales to non-Bell business in 1925 and 1926. Have you any further explanation of that spread between those figures other than what you have already stated?

A. In 1925, the sales included the sales of manufactured goods and supplies purchased from others to non-Bell customers. In 1926, it includes the sales of manufactured goods to the non-Bell customers, the supplies from the first of January, 1926, being purchased by the Graybar Company and sold by the Graybar Company.

Mr. Thompson: You mean there, as I understand you, in 1925, the sales were made all by one company and in 1926, they were distributed between two companies, is that correct?

The Witness: No, in 1925, all of the sales were made by the Western Electric Company. In 1926, all the sales were made by the Graybar Company, but the Graybar Company bought the manufactured goods of the Western Electric Company from the Western Electric Company, and supplies from other general suppliers. That is, the Western Electric Company ceased to buy from other suppliers after the formation of the Graybar Company; that was a function taken over in the formation of the Graybar Company.

[fol. 5727] Q. Let me ask you here, does the Graybar Company, or did it in those years that it was wholly owned by the Western Electric purchase supplies manufactured by other than Western Electric Company?

A. Yes, sir.

Q. And sell those to the Associated Companies?

A. No, sir.

Q. The Western Electric continued that business itself?

A. Yes, sir.

Q. Now then, Mr. Gregory, could we have the breakdown on sales for non-Bell and Bell as between products manu-

factured by the Western Electric and jobbing business where the company purchased goods and re-sold to the Associated Companies?

A. That information is available.

Q. Now, could we have that for the sales column on Exhibit 1 and on Exhibit 5?

A. Yes, sir.

Q. And on Exhibit 7?

Mr. Thompson: That Exhibit 7, that is the Ohio Bell itself?

The Witness: Yes. Yes, I think that is also available.

Q. And you will furnish that as soon as possible?

A. Yes.

Commissioner Bricker: Do I understand that a written request was made prior to this hearing for this information?

Mr. Herbert: No, it has not been made.

Commissioner Bricker: This is the first information that you have had of any request that would be made on you for this detailed information?

Mr. Herbert: No, the first specific information they have [fol. 5728] had as to what would be requested.

Mr. Thompson: That is right.

Q. To go back once more to the questions in regard to the prices of material as charged by the supply department in 1925, and as charged by the Graybar Company in 1926, was there any difference between those prices due to the creation of the Graybar Company solely?

A. Not that I know of.

Q. If there were any difference in prices, they were due to a price fluctuation entirely unrelated to the fact that you have taken the supply department and incorporated it as Graybar?

A. That is my understanding.

Q. Then the prices at which Western Electric sold to Graybar subsequent to its creation were lower than the prices which the supply department sold to the non-Bell trade?

A. On manufactured goods. Of course, that is what we are talking about, because that is the only thing that was sold by the Western Electric Company to the Graybar Company after its formation which they sold prior to the general trade. To answer that question, the sales by the Supply Department of the Western Electric Company to the customers

prior to the formation of the Graybar Electric Company were made at substantially higher prices than those to the Associated Companies.

Mr. Herbert: Wait just a minute, please. Read that answer, please.

(Answer read.)

Q. I would just like to break in there, if I may, that we are not concerned right now with the prices to the Associated Companies.

A. No, but I was using that as the basis. If you will let me finish this sentence, I think you will see that the answer [fol. 5729] is a responsive answer. After the formation of the Graybar Company, the prices made by the Western Electric Company to the Graybar Company were practically the same as Associated prices or slightly higher. That is, prior to the formation of the Graybar Company, the sales of manufactured goods to the general trade were considerably higher than those to the Associated Companies; subsequent, the same or slightly higher.

Q. Now, down to and including 1925, there was a wide spread of difference between the prices of materials sold to the Associated Companies and of materials sold to the non-Bell Companies?

A. On manufactured goods, yes, sir.

Q. On manufactured goods. What was the spread on purchased goods, approximately?

A. No, your question is what was the spread——

Q. Spread as between Western Electric prices to Bell and non-Bell business on purchased goods?

A. On purchased goods, the spread was as large a spread as we could get to non-Bell customers in competition with other suppliers. On sales of purchased items to the Bell customers, it was, during that time, on a cost plus basis.

Q. Plus what, 3½ per cent?

A. It was cost plus an item to cover interest on the investment.

Q. How much was that?

A. Approximately 6 per cent.

Q. 6 per cent.

A. Yes, interest on investment.

Q. I don't believe you have yet answered my question as to how wide the spread was?

A. Well, that is a varying item, of course.

Q. I mean relatively?

A. Oh, I should say, this is roughly, two and one-half to [fol. 5730] three times what we got on the Associated Companies.

Q. That is on purchased goods?

A. Purchased goods.

Q. How did that spread relate to the spread on manufactured goods as between Bell and non-Bell sales prior to the formation of the Graybar?

A. I think that is all in this testimony through Mr. Cox's testimony. That is, he has given the prices to the non-Bell Company as something over 25 per cent, on the average, in excess to the prices to the Associated Companies.

Q. Is that on purchased goods equally along with manufactured goods?

A. We were talking then about manufactured goods, as I understood your question.

Q. I was asking you whether there was any difference generally in the spread between prices of Western Electric to non-Bell and Bell Companies on purchased goods and on manufactured goods?

A. No, I think there was more of a spread on manufactured goods than there was on purchased goods.

Q. To non-Bell sales?

A. To non-Bell, yes, sir.

Q. Now, then, after the formation of Graybar, and particularly for the years '26, '27 and '28, nothing appears in these exhibits to show the profit received by Western Electric from its ownership of Graybar, is there?

A. You mean from dividends?

Q. Or any other income from Graybar?

A. Well, this statement shows all the profits that the Western Electric Company made on its business with Graybar.

Q. What it sold to Graybar?

A. What it sold to Graybar, yes, sir.

Q. But it owned Graybar a hundred per cent in those [fol. 5731] three years?

A. Yes, sir.

Q. And does not show the Graybar profit on those sales, does it?

A. No, sir.

Q. Now, have you that summarised in dollars for those three years?

A. No, I haven't it here. It is available.

Mr. Thompson: May I ask one question here, Mr. Herbert?

Mr. Herbert: Yes, sir.

By Mr. Thompson:

Q. Did Western Electric receive during the period of its ownership of the Graybar Company anything other than by way of dividends? I am laying aside the profit that is made on the sales to Graybar?

A. Nothing except possibly some interest perhaps on borrowed money, interest on borrowed money and dividends on the stock.

Q. And did you testify here as to what rate those dividends had been paid on the stock?

A. The dividends—I testified to the rate after the sale of the Graybar Company to its employees.

Q. But not before?

A. But not before, no, sir.

Q. I am free to confess that I don't see any very great relevancy. Now, here is what happened, if I understand the picture, certain assets that had been used by Western Electric largely in its non-Bell Business were sold to Graybar. From the time it commenced business on January 1st, 1926, as I recall it, for a period of three years, the Western Electric owned not only the preferred, but the common stock, is that correct, Mr. Gregory?

A. There was only common stock.

Mr. Thompson: Only common stock. Now, I can't see, the effort that we are engaged in here is to find out the profit on the business done by the Western Electric Company with [fol. 5732] the Bell Associated Companies. Now, it is true that involves a segregation of the non-Bell business, but here is a separately organized company to which the Western Electric sells its goods, its manufactured goods, which go out to non-Bell customers and all the profits on that business are in these statements. Now, it seems to me that it pushes the inquiry further than it ought to go, to conduct an investigation of the affairs of Graybar. I don't believe that we ought to be required to furnish that information and I will object to it on the ground that it has no real

relevancy to the issue here, which, under the decision of Judge Hughes, is to find out so far as this inquiry is concerned, what profit Western Electric has been making on its business with its Bell customers?

Mr. Herbert: I would like to ask about two more questions on that, and then I will be glad to answer this argument if the Commission cares to hear from me.

Chairman Hopple: All right, go ahead.

By Mr. Herbert:

Q. Approximately what rate of dividend was paid by Graybar to Western Electric for each of those three years?

A. I don't recall. There were irregular rates during those three years, there was no regular rate of dividend.

Q. Do you have in the back of your head an approximation of how much Western Electric received from Graybar in dollars?

A. Some millions, but I don't know how much.

Q. Well, would you say ten million?

A. Oh, no.

Q. Five million?

A. I am guessing.

Q. I am not asking you to be bound by this figure, Mr. Gregory, I just want an approximation?

A. I may be off two or three million dollars, but I would [fol. 5733] say under five millions of dollars.

Q. For the whole three years?

A. Yes.

Q. Now, had the Graybar not been incorporated, that would have been reflected in your sales column by the direct sales to the non-Bell trade, would it not?

A. Yes, sir.

Commissioner Geiger: Could you answer this question whether or not the organization of the Graybar Company resulted in the Bell Associated Companies paying more for the material that they purchased than they did pay before the Graybar was organized?

The Witness: Had no bearing at all on the prices that were charged to Associated Companies, Your Honor, absolutely no bearing on it.

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[fol. 5734] Q. What is the volume of sales in approximate percentage by the Western Electric to Bell Companies as

compared to the non-Bell Companies over the period covered in your exhibits?

A. Over the period?

Q. About ninety-three to seven per cent., is it not?

A. That is for the last five years.

Q. That is for the last five years?

A. Yes. For the fifteen year period, it is something like eighty-two over eighteen.

Q. But for the last five years, it is 93 per cent.?

A. Yes.

Q. And that includes the period entirely covering the formation and transfer of the Graybar Company?

A. Yes, from '26 to '30, inclusive.

* * * * * * *

[fol. 5735] Q. Graybar Company was sold to its employees at the end of 1928?

A. Yes, sir.

Q. And at that time, Western Electric received six million dollars in preferred stock, didn't it?

A. That is right.

Q. And three million dollars was paid to Western Electric for the company in addition to the six million of preferred?

A. That is right.

Q. How was that nine million dollar figure worked out?

A. That nine million dollars represented, roughly, the book cost of the assets of the supply business of the Graybar Company at that time.

Q. Represented the book cost?

A. Yes, sir.

Q. And did that represent the book cost less the depreciation reserve as it stood then?

A. Less the depreciation reserve as it stood at that time at the end of the period.

Q. Now, to make this short and concise, as the Commis-
[fol. 5736] sion desires, what percentages, relatively, have you used in depreciating those books costs in the various classes?

A. Now, talking about plant?

Q. Yes.

Mr. Thompson: You refer to Graybar now, do you?

Mr. Herbert: Refer to Graybar.

The Witness: And this is the time of the sale of the Graybar Company in 1928?

Commissioner Bricker: 1926.

The Witness: '26 or '28?

Mr. Herbert: '28.

The Witness: '28. The depreciation on plant at the time of the sale of the Graybar Company to the employees was approximately 50 per cent. of the cost of the plant.

By Mr. Herbert:

Q. Well, you worked out the details of that transfer with Mr. Ketcham, the President of it, is that correct?

A. Yes, sir.

Q. That is what you testified to in the Michigan case recently?

A. Yes, sir.

By Commissioner Geiger:

Q. Let me get right there, that was the sale of the assets that went to the Graybar Company?

A. Yes, sir.

Q. 50 per cent. of what they cost the Western Electric, is that right?

A. No, 50 per cent. of—no, at the time that the Graybar Company was sold to the employees, which was at the end of 1928, we transferred the plant or went into the assets of the Graybar Company at its book cost, which represented face value of plant less the reserve on the other side of the balance sheet, of approximately 50 per cent. of that face [fol. 5737] value.

Q. I am going back to 1926 when you sold the assets that then belonged to the Western Electric to the new and then-organized Graybar Company?

A. Yes, sir.

Q. Now, what did the Western Electric get for that when they sold it to Graybar?

A. At that time, as far as plant is concerned, as Mr. Herbert has mentioned, Mr. Ketcham, the president of the Graybar Company, and I, got together and we agreed upon an appraised value of that plant, which was approximately 50 per cent. of the cost.

Q. What did it amount to in money?

A. Our cost was something like $800,000.00 and depre-

ciation would be $400,000.00. That is roughly what the figure was.

Commissioner Geiger: Now, wait a minute, see if I have got that right.

By Mr. Herbert:

Q. Of what item?
A. This is plant.

By Commissioner Geiger:

Q. In 1926, the Western Electric sold to the Graybar Company about $800,000.00 worth of property?
A. Yes, sir.
Q. For how much, $400,000.00?
A. They sold it for $400,000.00.
Q. In 1928, the Graybar Company then sold—or the Graybar Company then turned back to the Western Electric——
A. To the employees.
Q. I know. I am talking about the preferred stock; didn't Western Electric get preferred stock?
A. As a part of the sale, yes, sir.
Q. How much?
A. Six million dollars.
Q. Well then, do I understand that the Western Electric [fol. 5738] got six million dollars in preferred stock which was secured by the property of the Graybar Company which two years before they had sold to the Graybar Company for $800,000.00?
A. No, sir.
Q. Well, it looks like that.
A. No, we were talking about plant only, Judge, and there are other assets besides plant, there was merchandise, receivables and cash, less accounts payable, which made up the nine millions of dollars.
Q. Here is what I would like to get at just as briefly as you can. In 1926, there was a transfer of certain assets then belonging to the Western Electric to the newly organized Graybar Company?
A. That is right.
Q. Now, in 1928, there was turned back to the Western Electric eight million dollars of the preferred stock?
A. Six million.

Q. Six million dollars of the preferred stock.

Mr. Herbert: Plus three million cash.

Q. What was the relation between the transaction in 1926 and 1928, how much money represented by the preferred stock did the Western Electric make in those two years? Do you get my point?

A. I get your point.

Q. All right.

A. 1926, the total amount of property, that is, I am including not only plant but everything else that was turned into the Graybar Company, was approximately nine millions of dollars, and then the Graybar Company carried on while it was a hundred per cent. owned by the Western Electric Company for a three year period, and at the end of the three year period, the company was then sold to the employees of the Graybar Company, and it was sold [fol. 5739] at practically this nine millions of dollars. In other words, that means that whatever profits that were made during that three year period were turned over to the Western Electric Company in the form of dividends. That is, it had the same assets as it did at the beginning of the period. So that I think that answers your question, Your Honor.

Q. No, it doesn't. What I want to know is how much increase was there in the value of the property that was sold by the Western Electric to the Graybar Company in 1926, and the time it was sold back to the employees of the Graybar Company in 1928 with six million dollars going to the Western Electric in preferred stock and others going to the employees, was there an enhancement of the property during those two years?

A. No, there was no enhancement in the value of the property, practically none, because of the fact that all of the earnings that were made during that period were paid to the Western Electric Company during that period in the form of dividends. In other words, the assets of the company at the end of 1928 were practically the same as the assets at the end of 1925, beginning of 1926.

Q. Well, now, in selling it back to the employees of the Graybar Company and giving the preferred stock in the sum of six million to the Western Electric, was there any inflation of value?

A. No, sir.

Q. Between 1926 and 1928 were the book and cost values substantially the same?

A. Yes, practically the same. In 1925, I want to mention this, that when we formed the Graybar Company, the plant prior to the formation of the Graybar Company was carried with a hundred per cent. reserve against it and that [fol. 5740] is that Mr. Herbert referred to as why Mr. Ketcham and I got together and agreed upon what is the proper price to put into this new company for that plant, and at that time, we set up this reserve of 50 per cent. instead of 100 per cent.

By Mr. Herbert:

Q. Having already taken off a hundred per cent. depreciation in the cost of sales earlier,—and the only point I want to make, Mr. Gregory, is the same point that was made in the other case, as you probably are aware, that there was a profit in that sale of Graybar to its employees which came back to Western Electric which did not show in these exhibits, the profit already having been taken in the cost of sales?

A. There was a profit of about $400,000.00 in the write-up of that plant that doesn't appear in these exhibits. We consider that as the non-operating profit, has nothing to do with the operating business.

Q. Now, going to this column, cost of sales, Mr. Gregory, in Exhibit 1, you testified at the time of your earlier appearance here that includes depreciation expense?

A. Yes, sir.

Q. And you also testified that your depreciation expense as set out in that column was different from the figures used in the Federal Income Tax return?

A. That is right.

Q. And that those figures differed from those which the government was yet willing to accept, is that correct? In other words, that you hadn't settled any income tax returns since 1921?

A. We haven't finally settled any income tax returns since 1921, but we have come to a pretty close understanding with the government as far as depreciation is concerned as to what principles to follow in putting in depreciation as a deduction from our income in the various years.

[fol. 5741] Q. Now, if we take your total cost of sales in Exhibits 1 and 5,—you didn't show cost of sales in Exhibit 5, that will have to be computed by deduction of net profits from net sales, is that correct?

A. That is right.

Q. But if you take the total cost of sales as they would appear from exhibits 1 and 5 for each of those years, that includes everything on which depreciation was taken, does it, substantially?

A. I don't understand your question, Mr. Herbert.

Q. Well, do you have any sizable depreciation in your whole company which is a matter of non-operating side of the business?

A. That includes all of the depreciation, that is depreciation on plant.

Q. Now, will you give us a statement showing the amount of depreciation which is used in each of these items of total cost of sales by year as they appear from Exhibits 1 and 5?

A. Yes, sir.

Mr. Thompson: If Mr. Herbert's request with respect to Graybar goes no further than furnishing the balance sheets as of January 1st, 1926, and for '27 and '28, the company will furnish it to avoid any argument. I don't want that interpreted as an assent to its admissibility, but we would rather furnish it than to have an argument about it.

Mr. Herbert: Well, if that is a conditional agreement, why, of course, I can't abide by it. Perhaps that is all we will need. Perhaps we may make a request following that——

Commissioner Geiger: Well, you haven't made that request now, Mr. Herbert. Let's take it up when we get to it.

Mr. Herbert: I am just stating if they offer to submit [fol. 5742] those conditioned that we take no more information or ask——

Mr. Thompson: It was not made with that idea, Mr. Herbert. It was made with the idea that we would submit that and then any additional request that we thought was not proper, we would oppose.

Mr. Herbert: That is all right.

Mr. Thompson: But we are not asking you to annex any condition to our producing.

Commissioner Geiger: No bargain made.

Mr. Thompson: No, sir.

Commissioner Geiger: Go ahead.

Q. Now, can you tell us by a further statement or all on this one statement, if possible, the depreciation set up by you for each of those years in your income tax returns?

A. That is available.

Q. You testified that there is a difference between the depreciation you used to create these exhibits and the depreciation you used for income tax purposes?

A. That is right.

Q. Now, have you gotten close enough together to be able to give us the third figure, the depreciation at which you expect to settle with the government relative to each of those figures?

A. That would be a pure guess as to the future and you know what the hazards are of any settlement with the income tax people.

Q. You know what the government——

A. I can give you an approximation, which would be only an approximation.

Q. Could you furnish that along with the other?

A. Yes.

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[fol. 5743] By Mr. Herbert:

Q. Well, can Mr. Gregory furnish us with the amounts which the Government says they ought to use? Are those fixed amounts, to your knowledge?

A. All that are fixed finally are to 1921. From that time on we have a pretty clear understanding as to what the government will allow, and it is in furtherance with that understanding that we have made up our reports from 1921 on. My guess is that there wouldn't be very much difference between the amounts since 1921 as far as depreciation is concerned in the final settlement from those amounts which are shown in the yearly reports submitted from that date on to 1930. As a matter of fact, I think my guess would be, no change.

Q. Now, will you tell us, Mr. Gregory, why you used different depreciations in preparing these exhibits than you did in your income tax returns?

A. We are forced to use different depreciations in the income tax returns. The ones that we have used in these exhibits are the rates which we feel are right and which

show the real story. The government has accepted those rates in general, but they have deferred the amount to be spread over a longer period of time.

Q. Now, when you say that, they agree that there is a hundred per cent to be written off, but it is going to take longer to do it?

A. That is right.

Q. Isn't that what you mean?

[fol. 5744] A. That is true as far as small tools are concerned.

Q. But when you say that, then they are not accepting the rates that you have used in your depreciation of total cost of sales, are they?

A. What I mean by that is this, what you have got in mind is that we, as I testified in Michigan, we maintain a hundred per cent reserve on small tools and fixtures as a practical matter. It means in practically all of these years, that what we have written off on small tools and fixtures is less than 25 per cent a year. Now, that rate of 25 per cent per year is a rate which is accepted by the government, 20 to 25 per cent.

Q. What depreciation rate did you use on buildings in this Exhibit 1?

A. Three and one half to four per cent.

Q. What?

A. Three and one-half to four per cent.

Q. And what per cent did you use in your income tax return for buildings?

A. The same rate.

Q. The same rate?

A. Yes, sir.

Q. Does that apply to any one of those rates but tools and equipment?

A. That is correct. They have accepted our rates on buildings, on service equipment, on machinery, and they have taken an exception to tools and fixtures.

Commissioner Bricker: What is the difference on those items, what you claim and what the government allows?

The Witness: I have the figures in mind on the Bell business only, and I think perhaps before I answer that question I should make this statement in the way of explanation. In 1929, which was a year of great activity, we manufactured a great quantity of tools and fixtures in that year, and

in accordance with our practice, we maintained our reserve [fol. 5745] a hundred per cent. The government says, "You must spread that over a four year period." Now, that means that in 1931 and 1932, the government is going to allow us more for depreciation than we will show as a deduction from our earnings in '31 and '32. We claim it is better business to have that deduction made in the year of great activity rather than to have to be forced in a year of depression such as this year, to take it out of our profits and out of our earnings. Now, if you extend this 15 year period through to 1932, the amount that is deferred, still deferred by the government on Bell business is about $7,900,000.00 and our return on investment will be for the 17 year period, 6.9 per cent on Bell business instead of 7 per cent on Bell business for the 15 year period as we figure it, using our own depreciation charges.

Q. Then you have estimated your profit for the next two years?

A. Yes, sir.

Q. Do you know what volume of business to expect?

A. We have an estimated volume.

Q. You just now testified that if this thing is projected through 1932, it would show that the Bell business was 6.9?

A. That is right.

Q. Have you those studies prepared with the detail by which you arrive at those percentages?

A. I can send it to you. This is a very rough sketch that I have got here.

Q. You just testified to a statement which you make authoritatively, Mr. Gregory, and I am asking you if you can furnish us with the information and the detail by which you arrive at that statement?

A. I can.

Q. Will you do so, please?

[fol. 5746] Mr. Thompson: That is a request, is it?

Mr. Herbert: Yes.

Q. Then the only difference that we may expect to see in the depreciation which you use in the preparation of this total cost of sales column in Exhibit 1 and the total cost of sales as it appears in Exhibit 5 will be on tools and equipment?

A. That is right. There is one further item that I want to say which appears in the depreciation on plant, which is not practically—which might be considered as other than depreciation on plant, but as long as it is in that depreciation on plant account, I think I ought to explain it. In '24, '25, '26 and '27, there was set aside a reserve of something over eight millions of dollars in the aggregate in those four years, not for depreciation on plant, which covers obsolescence and wear and tear and adaptability to other uses, but it was set aside for the purpose of meeting a contingency which we felt would arise in the ten year period, 1931 to 1940, and that is this, we were adding largely to our plant in this period of expansion subsequent to the War. We felt, and our actuarial studies, our statistical studies indicate from the experience after other great Wars and from a study of conditions, that we must expect that the price of construction subsequent to the decade after the War would be lower. We felt that this volume of business from 1920 to 1930 should carry the load rather than make the load fall on the year 1930 to 1940, so we set aside this reserve, which is really a reserve for falling in prices of construction of buildings and machinery, and we begin to realize today that that was a very wise step to take because there is coming that fall in prices, we see it in our contracts that are [fol. 5747] being let at the present time.

Q. I believe you testified that your own prices are going up due to the depression, is that correct?

A. You mean our prices of materials?

Q. Of materials, yes.

A. Yes, sir, our prices have gone up because of the fact, to some extent, because of the fact that during the ten year period, we have reduced prices to too large an extent while other companies were increasing their prices with increased volume of business, we were decreasing our prices, and we decreased our prices in 1929 to a very large extent, not realizing that the depression was ahead of us.

Q. Now, just a moment.

Mr. Thompson: Let him finish his answer.

Q. I would just like to interrupt at this point, if I may. In 1926 and '1927, you set aside an eight million dollar depreciation in anticipation of a construction program which hadn't yet been commenced, but which was to be written off

in 1931 and 1940, and in 1929 you reduced prices, not anticipating the depression?

A. They are two entirely different things, Mr. Herbert. In 1929, as far as prices to the Associated Companies are concerned, we felt in every year as we did in 1929, that we should make such reductions in prices to the Associated Companies as we could and still maintain a fair return on the investment. As far as prices are concerned, we felt that if the depression comes and if there is a demand for increase in prices, as we have reduced, so in fairness, we could increase the prices. But when it comes to the construction of plant, this is not a reserve against construction of plant in 1931 to '40. It is a write-off, it is a reserve [fol. 5748] against a write-off which we may be forced to make on plant that has already been constructed from 1918 subsequent to the war up to the present time, the cost of which we feel should be apportioned and charged against that period rather than against the period in 1931 to 1940, which it seems pretty evident is not going to be as active years as have been in the last ten years.

Q. That is real estate and buildings, isn't it?

A. It is buildings, service equipment and machinery.

Q. Eight million dollars?

A. Eight million dollars in four years.

Q. And that is another item which the government would not allow?

A. That is another item which the government doesn't allow, and I haven't mentioned that in this depreciation item because, although it is included in that item, it is not depreciation in the strict sense of the word.

Q. Or is that an item which you did not include in your income tax returns, but which you did in your preparation of these total cost of sales figures?

A. It is included in the preparation of these cost of sales figures because we think it is proper, but not included in the income tax return.

Q. You didn't even include it in your income tax returns?

A. No, sir.

Q. Are there some other items of difference in your treatment of depreciation in Exhibits 1 and 5 and in your income tax returns?

A. No, sir.

Q. The total of that was eight million dollars for those four years, you say?

A. Yes, sir.

Q. On buildings?

[fol. 5749] A. On the buildings, service equipment and machinery.

Commissioner Bricker: Roughly represented by what per cent?

The Witness: I don't carry that in mind, Mr. Commissioner, but I can get that. I will be very glad to do so.

Q. To go back to your tools and fixtures again, which you say is the major item of difference between your reports you filed for income tax and as they appear in the total cost of sales, now going to your Exhibit 6 and your contemplated exhibit on Bell business arranged in the same manner as Exhibits 6, can you segregate out from that column "Plant" in both this exhibit and the one which we have requested on Bell business, the amount of plant which is represented in tools and equipment by the years?

A. Yes, sir.

Q. Now, as a matter of fact, you take that tools and equipment part of the plant and write it off——

A. Tools and fixtures.

Q. Tools and fixtures, I accept the correction, and write it off a hundred per cent right in the same year?

A. The correct way to say that is that we maintain a hundred per cent reserve.

Q. Depreciate it, I mean, you set up a depreciation reserve of a hundred per cent in that same year for the amount that is represented by that item, tools and fixtures, in that plant column?

A. The way that reserve is built up is this,——

Q. Is that asking too much to ask for a yes or no answer to that?

A. I think it is, because I think we have got to have this explanation, Mr. Herbert.

Q. All right, go ahead.

A. The reserve is set up in this way, we started by writ-
[fol. 5750] ing off 25 per cent a year for four years and then after the plant had reached the four year life, then we said, "We will maintain it with a hundred per cent depreciation reserve." That is, in other words, new plant would

be written off 25 per cent a year and then at the end of four years, a hundred per cent would be written off and then we would maintain the reserve at that hundred per cent figure, and the additions in any one year, after you have reached that four year period, approximate something less than 25 per cent on the face value of your plant.

Q. Are you talking about tools and fixtures now?

A. Yes, sir.

Q. Well, if you bought, for example, a thousand dollars worth of tools and fixtures during the year 1930, that would appear in this amount of $11,085,000.00 for 1930, would it not, on Exhibit 6?

A. That would enter into the investment in plant. I think I have got to explain this a little further to give you the correct answer. We consider that the cost of plant, which includes buildings, land, service equipment, machinery, tools and fixtures, is a proper item to be included in the investment, because we consider that that is fairly representative of the reproductive value of that plant less existing depreciation, and that means that although as far as tools are concerned, by adding a thousand dollars worth of tools this particular year, it might be in excess for tools, there are other items where the reproductive value less existing depreciation would exceed the cost, so that the total would be equivalent to these figures.

Q. I don't want you to anticipate my question. I just [fol. 5751] asked you if you purchased a thousand dollars worth of tools and fixtures in 1930 which were devoted to non-Bell business, it would appear in plant at a thousand dollars in the 1930 column?

A. Yes, sir.

Q. Now then, would that thousand dollars also appear in Exhibit 5 by a calculation of the net cost of sales?

A. Yes, sir.

Q. So that in Exhibit 5 where it shows for 1930, sales of 22,648,000, by deducting net profits of 1,249,000 we would be able to compute the figure 21,399,000 as net cost of sales for 1930?

A. Right.

Q. And in the example which I have cited, $1,000.00 of that last named figure would be the depreciation 100 per cent of that thousand dollars which appeared over in the 1930 plant column?

A. That is right.

Q. So that the effect of that is to capitalize an item which you practically treat as a current operating expense, is it not?

A. As far as that particular item is concerned.

Q. And to the extent that tools and fixtures appear in your plant column all the way through, they are written off in your total cost of sales column for the same year each year and the ultimate effect of that is to show a per cent return on investment slightly lower than you would if you treated tools and fixtures as a current operating expense the same as labor and material?

A. As far as tools and fixtures are concerned, yes.

Q. When you furnish the exhibit showing the breakdown of Exhibit 1 in the same manner as Exhibit 6, will you also break down the items in the column headed [fol. 5752] "plant" in Exhibit 6 and as it will appear in Exhibit 1 to show us in dollars for each of those years the amount of tools and fixtures?

A. Yes, sir.

Q. Can you give us approximately how many different accounts go to make up your total cost of sales for any one year?

A. Different accounts?

Q. Yes. By that I mean depreciation is one item, manufacturing cost is another?

A. Development cost is another and our distribution cost is another, Federal taxes is another, and then from that we have deducted in this cost of sales the interest received on operations. Those are the main classifications.

Q. What I would like to get at, Mr. Gregory, is the underlying data that you used to compile your columns by years of cost of sales?

A. Yes, sir.

Q. I don't want to make a request on you that is unreasonable or out of line or that would be difficult to comply with. Have you that material broken down into certain classified accounts?

A. Yes, we have.

Q. That is what I would like to have made available?

A. All right.

Q. You don't have any such detail as that related to Exhibit 7, do you?

A. No, I have not.

Q. That breakdown that I seek on cost of sales is for both Bell and non-Bell.

A. Yes, sir.

Commissioner Geiger: Separate, Mr. Herbert, or together?

Mr. Herbert: It would necessarily have to be, Your Honor, because it is prepared separately on these exhibits. They aren't consolidated anyway.

[fol. 5753] Q. Now, in connection with these income tax returns which you make, you make those to the American Company, do you not?

A. They are consolidated with the American Telephone Company's return, which is sent by them to the Federal Government.

Q. But I mean the practice of the Western Electric is to make up a return on its own business which it in turn sends in to the American Telephone & Telegraph and pays a tax based on that return as if it were a separate return?

A. That is right.

Q. And if there is any benefit resulting or accruing from the filing of a consolidated return by the American Telephone & Telegraph, that is not credited back to the Western Electric, is it?

A. No.

Mr. Thompson: What was the answer?

The Witness: I said no, it isn't credited back to us. We pay a tax based on our return.

Mr. Thompson: Well, the only thing was, it seemed to me that before we go into that, the question arises whether there has been any benefit.

Commissioner Geiger: Gentlemen, can't we go ahead with questions and answers and objections and overrulings? Let's run this as a law suit now. You object to the question and we will pass upon it.

Q. Well, does your return as filed with the A. T. & T. Company show a profit on sales to the Associated Companies?

A. It shows all the profits that Western Electric Company makes.

Q. Would your return for 1930 then show a profit of $11,685,000 on Bell Business?

[fol. 5754] Commissioner Geiger: What exhibit are you referring to?

Mr. Herbert: I am referring to the figures that appear at the bottom of the column "Net profits" on Exhibit 1.

The Witness: You wouldn't find that figure in the return, but it is included there.

Q. That figure is included in the return?

A. Oh, yes.

Q. Now then, that figure is not included in the return when it goes on in from the American Telephone & Telegraph Company, is it?

A. It is not included?

Q. Isn't it treated as an inter-company profit?

A. No, sir.

Q. You are sure of that?

A. Yes, sir.

Q. Would you submit to us, Mr. Gregory, your returns as made to the A. T. & T. Company for the past six years, 1925 to 1930, inclusive?

Mr. Thompson: That is on the over-all business of the Western Electric. I am going to object to it, pardon me, on the ground that the only inquiry which the Commission is now engaged upon is one of ascertaining profits on business done with the Bell Associated Companies. Now, as a part of that, it is quite true that it is necessary to ascertain in the Division the profits made on non-Bell business, but what is inquired about now is all the profits and all the earnings, operating and non-operating, Bell and non-Bell, to the Western Electric. And here their income tax returns, I can't see that they have any relevancy, to go into a phase of our business that is not the subject of investigation here.

By Mr. Herbert:

Q. I believe you testified that 93 per cent of your busi-
[fol. 5755] ness in the past five years has been done with Bell Associated Companies, have you not?

A. Yes, sir.

Mr. Thompson: Your Honor, may I ask a preliminary question? Mr. Gregory, what would be included in the return made by your company to the American Telephone & Telegraph Company in order to compile a consolidated return for income tax purposes, is all income of all kinds, operating and non-operating, is that true?

The Witness: Yes, sir.

Mr. Thompson: Without any reference as to whether they arise out of the manufacturing business?

The Witness: That is correct.

Mr. Thompson: I submit that the objection is well taken to this information.

Commissioner Geiger: Well, do you state that 93 per cent of your business is with the Bell Associated Companies?

The Witness: In the last five years.

Commissioner Geiger: We will take it under advisement. Go ahead. You may pursue your line of questions, but the objection, we are taking it under advisement.

By Mr. Herbert:

Q. You do state, however, Mr. Gregory, that the net profits as they appear on your Exhibits 1 and 5 are included in the net profits as they appear in your income tax return?

A. All the profit that we make, both that is——

Q. I am referring specifically to the net profits as they appear in these two exhibits, 1 and 5?

A. Yes, sir, they are all included.

Q. They are included in the net profits which you show in your income tax return?

A. Yes, sir.

[fol. 5756] Q. And are again included in the A. T. & T. return?

A. They consolidate all the subsidiaries.

Q. About how many subsidiaries does the Western Electric own?

A. It had about seven or eight main subsidiaries and each of those subsidiaries have a number of subsidiaries. Probably there are 35 or 40 subsidiaries.

Q. Now, do they make a return to your company the same as you make one to the A. T. & T.?

A. Yes, sir.

Q. None of those subsidiaries owned by you make a return directly to Washington?

A. No, sir.

Q. Now, when one company, one of your subsidiaries sells to another of your subsidiaries at a profit, will you tell the commission whether or not that profit is washed out on the income tax return as an interdepartmental transaction, or is an income tax paid on that particular profit?

A. The profits that are made on merchandise that is held by our subsidiaries which is not sold is deducted in the combined income tax return, but all profit that is made on material that is sold is included in the return.

Q. If one subsidiary buys a product from another, that is not included in the income tax return, the profit on that does not finally show in the Western Electric income tax return as it is submitted to the A. T. & T. does it?

A. I will illustrate that, Mr. Herbert. Suppose that the Western Electric Company sells a thousand dollars worth of material to the Graybar Company, we will say, during this period when it was a hundred per cent owned. At the end of the year, we find that $500.00 worth of that material is on the inventory and $500.00 worth has been sold. If it [fol. 5757] has been sold by the Graybar Company, the profit is taken by the Western Electric Company and also by the Graybar Company on that $500.00 worth of sale.

Q. Just a moment, if I may interrupt. You say the profit is taken?

A. Is included in these figures in the combined income tax return.

By Commissioner Geiger:

Q. What proportion?

A. The actual profit that was made on those sales, both by the Western Electric Company on its sales to the Graybar Company and by the Graybar Company to the customer.

Q. The Graybar Company doesn't sell to any associated or affiliated company?

A. No, sir.

By Mr. Herbert:

Q. Can I cite a——

Mr. Thompson: I don't think he has quite finished.

The Witness: I haven't finished. I was waiting for Mr. Herbert to get through.

Q. Go ahead.

A. This example that he has taken of a thousand dollars of goods which were sold to the Graybar Company, $500.00 of it has been sold by the Western and also sold by the Graybar to its customers, therefore, as far as the Western Electric system as a whole, the profit is earned and taken.

Q. Let me interrupt you again. You started on the assumption that Western had sold to Graybar a thousand dollars worth?

A. Yes.

Q. Now, you say $500.00 of it having been sold——

A. Well, I will start all over again, Mr. Herbert.

Q. All right.

A. Consider a sale of goods of a thousand dollars to the Graybar Company by the Western Electric Company.

[fol. 5758] Q. Graybar pays Western a thousand dollars?

A. Pays Western a thousand dollars.

Q. There is a profit in there?

A. There is a profit we will say of a hundred dollars, just for example, that is, the Western Electric Company profit of a hundred dollars. Then the Graybar Company tries to dispose of that material, of course, as soon as possible. They succeed in the particular year in which we are talking about in selling $500.00 worth of that stuff to their customers. They have $500.00 worth left on their inventory at the price which they paid to the Western Electric Company. Now, that $500.00 worth of stuff which they paid to the Western Electric Company carries a profit to the Western Electric Company of $50.00, now, assuming that that is it on the average. So as far as the Western Electric system is concerned, we should inventory that really at $450.00 because we haven't sold——

Q. Who is "We"?

A. I mean the system, as far as the system is concerned, I mean the Western Electric Company and all of its subsidiaries.

Q. But Western Electric is not interested in the inventory on that, that is Graybar property?

A. The Graybar will inventory that at $500.00, that is true, but when we come to make this consolidated return, we deduct $50.00 from the combined return in order to get at the total amount of earnings of the Western Electric System on which an income tax should be assessed.

Q. Carry it further and assume Graybar made a hundred dollars on the $500.00 property which it sold?

A. Yes, sir.

Q. There is a hundred dollars profit on that $500.00 sale? [fol. 5759] A. Yes, sir.

Q. Which Graybar makes a return as a profit in making its return to the Western Electric?

A. That is right.

Q. Now, Western Electric received a thousand dollars from Graybar for the original property?

A. That is right.

Q. $100.00 of it was profit. Now, you say Western Electric declares in its income tax return only the $50.00 profit?

A. No. What I say is this, Mr. Herbert, you take an example that where the Graybar sells half of this sale of $500.00 at a profit of 20 per cent and makes a hundred dollars. Now, as far as the Western Electric Company is concerned and the Graybar is concerned, and that is what we are considering in this income tax return, the combined report, that is the only object of this question, the combined report, then what we have sold is $600.00 worth of goods manufactured by the Western Electric Company for $450.00, sold by them to the Graybar Company for $500.00, sold by the Graybar Company to its customers for $600.00. Therefore, there is a profit altogether of $150.00 on that transaction. Is that clear? A hundred dollars for the Graybar and $50.00 for the Western Electric, if that is clear.

Q. Yes.

A. Well then, what we show in this income tax return is $150.00 of profit. We don't show any income on the other $50.00 which hasn't been sold by the Graybar Company.

Commissioner Geiger: Well, but isn't the transaction complete when you as the Western Electric sell it to the Graybar? Do you have to wait until the Graybar sells it before you can charge up the profit in your income tax return?

The Witness: This is one of the details and the difficulties [fol. 5760] in making up an income tax return, Your Honor, this is one of the explanations of the difficulty. That is one of the deductions which is allowable by the income tax people.

Q. Let me take another example. Graybar in those years bought certain office equipment installation, didn't they?

A. Yes, sir.

Q. For some independent operating telephone company?

A. Yes, sir.

Q. Western Electric made the sale to Graybar. Graybar made the sale to the independent telephone company; wasn't that the usual procedure during those years?

A. Yes, sir.

Q. Let's assume that Western Electric made a thousand dollars off of the Graybar in the pricing of that installation and that Graybar sold it to the Independent Telephone Company at an additional thousand dollar profit, the whole transaction occurred within the year; as a matter of fact, usually Western Electric made those installations direct and Graybar was——

A. No, the Graybar Company as a matter of fact—you see, they make the installations or they have the installations made through outside people; in some cases, the telephone companies themselves made the installations.

Q. But at any rate, the entire transaction is cleaned up in the year. Now, Graybar showed a profit of a thousand dollars when it made its income tax return to the Western Electric?

A. That is right.

Q. Did the Western Electric in passing on its income tax return to A. T. & T. show a thousand dollar profit as made by Graybar plus a thousand dollar profit as made by itself?

A. Yes, sir, if it is made within the year.

[fol. 5761] Q. But wherever the transaction was left unfinished over the year, that reacted to the benefit of the Western Electric Company?

A. Well, you mean a benefit in that the tax is deferred until such time as the goods are sold, that is what you mean by benefit?

Q. That is what I mean, yes.

A. Yes, sir.

Q. And you, in the preparation of these exhibits, do not reflect that saving made by the Western Electric Company?

A. Oh, yes, taxes are lower, the taxes we have got in here are those that we pay.

Q. You mean in figuring up the total cost of sales you took the items which you actually paid?

A. Yes, the Federal tax that we actually paid or as near as we can estimate it for the particular year. Of course, the end of 1930——

Q. You haven't paid any finally since 1921, have you?

A. Oh, we paid the tax.

Q. I mean the payment hasn't been final?

A. That is right.

Q. It is still open as to whether you owe them some more money or they owe you a rebate?

A. That is right.

Q. In preparing your total cost of sales, did you use what you actually had paid them or what you think they will settle at?

A. What we actually have paid them with an accrual, of course, for 1930.

By Mr. Laylin:

Q. If it is all right with the Commission, I would like to clarify this just for my own mind. Would your same illustration with respect to the sale of certain office equipment to Mr. Herbert apply in the case of a sale now by Western Electric to an Associated Company if it were consumed, in [fol. 5762] other words, put into service by Western Electric Company, would that sale price profit from Western Electric to the Associated Company be reflected in the A. T. & T. Consolidated return or would it not, if it were consumed, but passed on to some outside purchaser.

A. Of course, that is something really that the A. T. & T. Company has in their own hands, that is, the consolidation of those returns, but I feel confident that whatever profit the Western Electric Company have made on sales to Associated Companies are included as such in the total returns to the government, if that answers your question.

Q. You are not certain on that?

A. The only thing is, I haven't seen the return itself, it doesn't pass through my hands, that consolidated return.

Q. In considering your Western Electric set-up for income tax purposes and consolidated return, if you should sell to Graybar, Western Electric should sell to Graybar,——

A. Now, you mean?

Q. No, before and under the three year period when they were one company for the purposes of income tax return,

and that were not passed on in turn by Graybar by a sale to the public, then there would be reflected no profit?

A. That is correct.

Q. If you sold them something that they put into their plant, for example?

A. That is correct.

Q. Now, you say that that same principle would not apply in the consolidated return of the A. T. & T.?

A. That is a fact. I wouldn't say that it doesn't apply; it hasn't been done that way.

[fol. 5763] By Mr. Herbert:

Q. I want to ask you, Mr. Gregory, when you were preparing your cost of sales data, you said there was an apportionment based on the time factor. Have you any data showing how those time factors were worked out?

A. I can tell you roughly what it is, Mr. Herbert. Take for illustration the commercial department of the Western Electric Company, commercial department is one of the departments comprising the general expense of the company, of the general offices, 195 Broadway. That department not only carries on business with the Associated Companies but it also has charge of the sales of aviation equipment to aviation companies and also of sales to other distributors of the Western Electric Company. Now, what I mean by a time factor in that department, there are men spending part of their time on associated business and some part of their time on other business, and there we attempt to make the division on the basis of the time, roughly, and we don't ask them to ring a time clock or anything of that sort, but estimated basis as to how much time they spend on each class of the business.

Q. Who makes the division, the individual concerned?

A. Of course, the individual who is involved knows more about it than anybody else, but that, of course, is passed on by his superior.

Q. Until you get up to the executive group, and then you simply take their statement as to what portion of their salary to allocate to Bell and to non-Bell, is that correct?

A. You take the president of the company, I request him from time to time for information as to how much time he devotes to the work that is done by each of the men who [fol. 5764] report to him. His time is divided in that way and then that expense thus ascertained, that is, if you find

out from that method how much is apportioned to the general accounts department, comptroller's department of the Western Electric Company, then that time is apportioned between the Bell and non-Bell business as the accounting department business is apportioned between Bell and non-Bell business.

By Commissioner Geiger:

Q. You say, as I understood it, that there were about 35 subsidiaries, directly and indirectly, of the Western Electric; is that correct?

A. Yes, sir.

Q. How many of those do business with the Bell Company or its Associated Companies?

A. One of those subsidiaries is a real estate company.

Q. Well, just generally?

A. I am taking them one by one. Very few of them, and that is the only one that I can think of, which does business directly with an Associated Company. That company owns the 395 Hudson Street Building in New York. We have 82 per cent ownership and the New York Telephone Company has 18 per cent and they rent part of the space and we rent part of the space, so it is——

Q. Now, taking that real estate company as an example, what sort of profit does the real estate company make out of its dealing with that building and the renting it to you and to the other company?

A. We set a rate, a rental rate, which is agreed upon both by the Western Electric Company and the New York Telephone Company——

Q. You speak of "we" you mean the Western Electric?

A. Well, the Western Electric Company having 82 per [fol. 5765] cent ownership takes the initiative, and we determine what that rate should be in order to cover the entire expense of operating the building, including interest on the mortgage on the building, and 7 per cent on the stock which is owned in about that same ratio between the New York and the Western Electric Company. So what it results in is that we get 7 per cent on the stock and we get interest on the amount of money that we have loaned in the building. We also hold the mortgage, which is a five per cent mortgage, so I should say that roughly we get something less than six per cent on the investment in that building, which goes into the rent charge, part to the New York

Telephone Company for the space they occupy and part to the Western Electric Company for the space that we occupy.

Q. Now, what other companies, if any, of the subsidiaries of the Western Electric do business with the Bell or Associated Companies?

A. The Electrical Research Products Company have furnished some of the sound picture equipment for use among the Associated Companies. That is a relatively small item, I don't suppose it has $75,000.00 worth of business of that kind, 75 to 100 thousand dollars worth of billing to the Associated Companies from the Electrical Research Products Company.

Q. What ever profits these subsidiaries, of which there are 35, make goes ultimately into the treasury of the Western Electric?

A. Through dividends.

Q. Through dividends upon stock which are held by the Western Electric?

A. That is right.

Q. And ultimately go further into the A. T. & T. Company [fol. 5766] by reason of the holding of the A. T. & T. Company?

A. 98.3. Of course, we have a little minority.

Q. All of these subsidiary companies, ultimately it gets into the treasury of the A. T. & T. with slight exceptions?

A. Yes, sir.

Q. Now, are there any companies which are engineering and managing companies or anything of that sort?

A. Yes, sir, there is the Bell Laboratories.

Q. Well, now, what about the Bell Laboratories?

A. Bell Laboratories is owned 50 per cent by the Western Electric Company and 50 per cent by the A. T. & T. Company and it furnishes its services to the Western Electric Company and bills them at cost, and to the A. T. & T. Company and bills them at cost, and it also does the development work for this Electrical Research Products Company on sound pictures, to which it makes charges at cost.

Q. Well, if it bills them at cost, it makes no profit.

A. That is right, it makes no profit.

Q. It doesn't charge an overhead of one and one-half or two per cent gross or anything of that sort?

A. No, sir. Most of these companies, Your Honor, these 35 companies are small subsidiaries of the Products Com-

pany located throughout the world for the distribution of sound pictures. They are great in number, but of relatively small importance. More than 20 of them are subsidiaries of the Products Company.

By Mr. Herbert:

Q. You say there are 35 companies?

A. I am——

Q. Approximately?

A. I think it is probably a little less than 35, as I think of it now, but it is approximately that, between 30 and 35. [fol. 5767] Q. What are the chief subsidiaries of the Western Electric and have been over this period? We have discussed Graybar?

A. Yes, sir.

Q. It was incorporated in '25 and disposed of 1928?

A. Yes, sir.

Q. Now, what followed that?

A. Then there is the International Western Electric which was sold in 1925.

Q. When was the International Western Electric Company incorporated?

A. In 1918.

Q. It was organized in 1918?

A. Yes.

Q. And sold in 1925?

A. Yes.

Q. By Western Electric?

A. Yes, sir.

Q. To whom?

A. To the International Telephone & Telegraph Company.

Q. Didn't it pass through Electrical Research Products?

A. No, sir, Electrical Research Products was not formed till January 1st, 1927.

By Commissioner Geiger:

Q. Well, now, does the A. T. & T. own any stock in the International?

A. International Telephone & Telegraph Company?

Q. Yes.

A. Not to my knowledge. I feel confident that they do not.

By Mr. Herbert:

Q. Well, the International Western Electric was sold in 1925 to I. T. & T., it was a hundred per cent owned by Western Electric, the Company which you are comptroller of?

A. Yes, sir.

Q. And I believe there was—what was it, a nine or ten million dollar profit on that sale, is that it?

[fol. 5768] Mr. Thompson: To which question the Ohio Bell Telephone Company objects. The International Telephone & Telegraph Company conducted a business abroad, and that is true, isn't it, Mr. Gregory?

The Witness: Yes, sir.

Mr. Thompson: Had no relation to the telephone business in the United States. Any profit made by the Western Electric Company on the sale of that business could have no relevancy to this issue here. If it had lost money, we are certain that it couldn't have been charged against the public, and the profit has no connection, as I see it, with this picture, and we therefore object to it as entirely irrelevant.

Commissioner Geiger: Objection overruled, and exception noted.

(Question read.)

A. There was a profit of approximately sixteen million dollars, of which the dividend of $9,700,000.00 to which you refer was a part of the process of getting that profit.

Q. There was a profit to Western Electric in the sale; in other words, they received sixteen million more than their books showed that company to be?

A. Yes.

Q. That was organized in 1918?

A. Yes, but it took over the assets of another foreign company which was previously organized in 1912 or '13.

Q. And owned by Western Electric?

A. And owned by Western Electric.

Q. None of the profits of those Western Electric subsidiaries appear in your non-Bell sales Exhibits, do they?

A. No, sir.

[fol. 5769] Q. Then the 9,700,000 I referred to was a dividend declared by Western Electric, paid over into American Telephone & Telegraph, is that correct?

A. No, it was a dividend, it was a special dividend that we got, as I recall it, from our London house at that time.

Q. By "London house", which do you mean?

A. That was one, Western Electric Limited, London, was one of the subsidiaries of the International Western Electric Company.

Q. Western Electric Company?

A. International Western Electric Company, which was the one that was sold.

Q. What was the subsidiary's name?

A. Western Electric Company Limited of London. That had a large surplus which had been built up over a period of years and in liquidating—in connection with the sale, it was deemed advisable from a great many standpoints to pay that dividend, so that the profits that were made, were made up in part of that dividend and about six million dollars more representing the difference between the book value and the selling price of the International Company.

By Commissioner Geiger:

Q. Wait just a moment there. Now, the Western Electric jumped back seven and one-half million dollars profit, is that it?

A. Sixteen million dollars profit.

Q. What became of that sixteen million, does the inventory show as the value of the Western Electric——

A. That sixteen million dollars went into the cash account of the Western Electric Company and was used by them for any purpose that we might have, just the same as any other cash.

Q. It is reflected in the present estimated value of the Western Electric?

A. It was used in enlarging the business—the particular [fol. 5770] use at that time was to pay off——

Q. Wait a minute, don't go into that. Now, you think you should earn a profit on that out of your transactions with the American Telephone & Telegraph Company?

A. I think we should make a profit, regardless of the source of the cash, I think we are entitled to earn on that investment, regardless of the source.

By Mr. Thompson:

Q. May I ask a question, please? The International Western Electric, the profit, this sixteen million dollars you

made, was by the declaration of a dividend by the International Western Electric and the sale of the assets of the International Western Electric to the International Telephone & Telegraph, is that right?

A. That is right.

Q. Now, the International Western Electric operates where?

A. International Western Electric Company was a holding company whose companies operated in foreign countries.

Q. And none of this profit was made in any way, shape or form by the sale of telephone apparatus or equipment to any of the Bell Associated Companies in this country?

A. No, sir.

Q. It was a profit on an outside transaction in foreign countries that had grown up during a period of years and was finally distributed by way of, first, dividends, and then a profit on sales when the sale to the International Telephone & Telegraph was completed?

A. That is correct.

Q. And the International Telephone & Telegraph has no relationship, so far as you know, with either the American Telephone & Telegraph Company or the Western Electric Company?

A. That is right, it has no relationship.

[fol. 5771] By Mr. Herbert:

Q. Now, International Western Electric, which you have said was a holding company, did it own any manufacturing companies?

A. Yes, the Western Electric Limited of London is a manufacturing company.

Q. And did that company manufacture the same products which Western Electric of Illinois manufactured?

A. To a large extent.

Q. Let me just clarify one point also. The Western Electric that we have been referring to all the time is the Western Electric of Illinois, isn't it?

A. It is a New York Corporation now.

Q. It was an Illinois corporation?

A. Now, it is a New York corporation.

Q. Down to what year?

A. Down to November 17, 1915, it was an Illinois corporation.

Q. Then it was incorporated in New York?

A. Then it was incorporated in New York.

Q. That is the same corporation from that time on until now?

A. Yes, sir.

Q. Now, they manufacture in London, the London Company, the same products as the Western Electric, the New York Corporation?

A. To a large extent.

Q. And in whose name were the patents taken out in England and in the foreign countries where those products were sold, the Western Electric of New York or the Western Electric Limited of London.

A. Western Electric Limited of London.

Q. And when an article was patented over here by the Western Electric of New York, it was patented in London by the Western Electric Limited of London?

[fol. 5772] A. Well, it was thought advisable to take that action.

Q. Was there any distribution of the cost of the development and research connected with that invention or that patent?

A. No, there was not.

Q. In other words, if an article were patented as the result of research by the Western Electric in this country, regardless of how much money was spent in the development and research resulting in that patent, it was patented by the Western Electric Limited of London for that foreign trade?

A. That is——

Q. I am taking an example?

A. Yes, I understand. That is correct, the patent was taken out in this country and the International Western Elctric Company and its subsidiaries, under the agreement with the Western Electric Company, had the right to get the benefit of both patents, whatever ones they felt it advisable to take out in foreign countries.

By Commissioner Geiger:

Q. The stock of the International Western Electric was held by the Western Electric of New York?

A. That is right.

Q. Any profit made on these patents or the operation of

the patents in England or foreign countries came into the treasury of the Western Electric of New York?

A. As dividends.

Commissioner Geiger: And on down into the A. T. & T.?

Mr. Herbert: Only by way of dividends, Your Honor.

The Witness: As dividends were declared.

By Mr. Herbert:

Q. And none of those dividends appear in any of these exhibits, do they?

A. No, sir.

By Commissioner Geiger:

Q. Now, just one more, Mr. Gregory. You say we have thirty-five subsidiaries to the Western Electric of New York, [fol. 5773] formerly of Illinois. How many have we of the International Western Electric of London?

A. You mean the Western Electric Limited of London?

Q. Yes.

A. Of course, what we are talking about now, is the company that is sold.

Q. I know.

A. And the thirty-five companies that I am talking about is the present situation. Now, your question is how many were subsidiaries of the Western Electric Limited of London five years ago, six years ago?

Q. Yes.

A. I don't recall that there were any. There is a very close working relation between the Western Electric Company of Australia and the Western Electric Company of London, but I think, as I remember it, that stock was held by the International Western Electric.

By. Mr. Herbert:

Q. Now, was there any manufacturing company other than Western Electric Limited of London owned by International Western Electric?

A. Yes, sir.

Q. Which one is that?

A. There is the Bell Telephone Manufacturing Company of Antwerp, which is the company that was organized in 1882.

Q. When did it come under the control of the American Telephone & Telegraph Company?

A. It came under the control of the Western Electric Company in 1882, it was formed by the Western Electric Company of Illinois in 1882.

Q. As the Bell Telephone Manufacturing Company?

A. Bell Telephone Manufacturing Company of Antwerp.

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[fol. 5774] Commissioner Geiger: Let me ask a question. Is any of the foreign business run by these foreign companies, any of the equipment manufactured at the Western Electric Company and shipped over and used in English or Australian or South American Bell Telephone plants?

The Witness: There were some equipment, some manufactures that were made in this country, and shipped abroad and used in the form of piece parts or in the manufacture of the completed apparatus in those various companies abroad, but the profit on such shipments is included in this Exhibit Number 5.

By Mr Herbert:

Q. Included only to the extent of the sale to the subsidiary foreign company?

A. Yes, and the profits on that sale.

Q. But the profit resulting from the sale of that article by the foreign company is not included?

A. Oh, no.

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[fol. 5775] By Mr. Herbert:

Q. Have you a figure year by year showing the total cost of operating the Western Electric Company as a company?

A. What do you mean by operating, total cost of the Western Electric Company of operations?

Q. Yes.

A. I haven't it here. That can be ascertained.

Q. How much would that be in excess of the sum for any year of the two figures as they appear in the total cost of sales in Exhibits 1 and 5?

A. I couldn't tell you offhand.

Q. Well, approximately?

A. I really——

Q. I meant in percentage, would it be one per cent or two per cent or five per cent?

Mr. Thompson: I want to object. The witness is willing to furnish the information, but I don't want him to guess at it.

Mr. Herbert: I don't want to bind him by it. I just want to use it for the moment. I want the definite information at any rate.

The Witness: I couldn't give you the answer, Mr. Herbert. I haven't got it in mind.

Q. You will furnish us then a statement showing the total cost of operating the Western Electric Company by the years allocated in non-operative income?

A. Operating against non-operating income?

Q. Yes. I assume that the total cost of sales as they ap- [fol. 5776] pear in your Exhibits 1 and five added together for any year would show us a total cost of operation of the Western Electric Company allocated against operative income?

A. That is correct.

Q. So that if we have a single statement showing total cost of operation allocated in non-operative income, we can then compute, by adding up the three figures, for any year, the total cost of operation of the Western Electric Company; is that correct?

A. That is correct.

Q. Didn't you testify in the Michigan case that that was approximately one per cent?

A. One per cent of what?

Q. Of your total?

A. No, I said it was something less than one per cent.

Q. Something less than one per cent?

A. Yes. I haven't looked the figures up, I don't know.

Q. You haven't verified that yet?

A. No, I haven't.

Q. And for the year 1930, your net profit from sales was $12,934,000.00, was it not, that figure arrived at by adding the last figure in the column headed "net profits" on Exhibit 1 and the last figure opposite "1930" on Exhibit 5?

A. Yes.

Q. And your net non-operative income, as you term it, for 1930, is $8,145,000.00, is it not?

A. As shown in the stockholders' report.

Q. It is upwards of eight millions?

A. Well, that includes in there, as I testified in Michigan, certain interest received, which in this exhibit is deducted from the cost of sales, so that eight millions is not entirely non-operative income.

Q. Well, I believe you testified in the Michigan case to the exact figure of 12,151,980 as net profit from sales?

[fol. 5777] A. As shown in the stockholders' report, yes.

Q. And that figure is different from the net profits as shown by adding up these two figures referred to?

A. Yes, by this interest received item.

Q. But is there any difference in your net profit from other income for that year, for example?

A. I think that is the main difference. That is the question that was asked in Michigan and I have testified that I will give the explanation. I will do that here.

Q. Can you explain for the benefit of this Commission what you mean by that interest received item?

A. That is the amount of interest that we received.

Q. From whom?

A. From our customers, in connection with our operations.

Q. Bell customers?

A. Yes. We have certain stocks that we are carrying for them, returned goods, which we carry subject to their order and we pay them for that stock and they pay us interest upon the money that we really advance for them.

Q. Wouldn't that tend to increase your net from sales as it appears?

A. What is that?

Q. Wouldn't that tend to increase your net from sales?

A. It does.

Q. Then you mean you have got it in your exhibits, but you haven't got it in your annual statement?

A. We have got it in our exhibits as a deduction from the total cost of sales. In the annual report, we have included that interest received as a part of other income there.

By Commissioner Geiger:

Q. Why would you deduct it here?

A. What we were trying to show Your Honor was, what [fol. 5778] the profits were on operations.

Q. Not what the profit is on interest from loaned money?

A. No, what the profit was on our operations with the Bell Companies; and interest that we received from those companies in carrying stocks for them is, it seems to me, a proper item of profit, and in this exhibit, it isn't a sales item, so that we naturally have to deduct it from our cost of sales item, which is a proper accounting procedure.

Q. Well, do you account for it in any of the other exhibits?

A. All the exhibits.

By Mr. Herbert:

Q. Going back to your International Western Electric Company which you have testified as being a holding company and stated there were two manufacturing companies which it owned the stock of, were there any other manufacturing companies involved there?

A. Yes, sir.

Q. How many were there besides those two, approximately?

A. That is wholly owned or——

Q. That is by International Western Electric?

A. Wholly owned?

Commissioner Geiger: Wholly or partly.

Q. Or controlled?

A. I think there were five or six of them in different parts of Europe.

Q. Making seven or eight in all?

A. Yes.

Q. And all the rest of the companies owned by International Western Electric were distributing companies?

A. Well, I think most all of them were manufacturing companies.

Q. Were there any purely distributing companies in it?

A. I think not.

Q. And through what channel did they dispose of their [fol. 5779] product, directly to their own sales department?

A. Yes, sir.

Q. Now, what company was it you sold to I. T. & T. in 1927?

A. Didn't sell any companies to them.

Q. Didn't sell any companies to them?

Commissioner Geiger: Well, when did you sell the International Western Electric?

The Witness: September 30, 1925.

Q. Now, there was an International Standard Electric, was there not?

A. There is now.

Q. There is now?

A. Yes, sir.

Q. When was that created?

A. That is the International Western Electric Company with the name changed. When the International Telephone & Telegraph Company bought the company they changed the name from International Western Electric to the International Standard Electric.

Q. That is the one they own themselves?

A. That is the one they own themselves.

Q. Now, we have covered Graybar and International Western Electric. What was the next large subsidiary formed and owned by the Western Electric?

A. Electrical Research Products, Incorporated.

Q. When was that formed?

A. Started business the first of January, '27.

Q. And what is the nature of their business, very largely?

A. The nature of their business is largely the exploitation and development of the sound picture business, sound picture equipment.

Q. And at what were they capitalized when they were started?

A. When they were started, they were organized with [fol. 5780] a capital stock of a million dollars, and forty millions of assets, representing a total of $41,000,000.00, this forty millions of dollars representing thirty millions of government securities, and ten million of other items, some of them some stocks of some subsidiary companies like the Northern Electric Company and the Graybar Electric Company. This forty-one millions of dollars represented a part of the non-Bell earnings that the Western Electric Company had made over a period of years. In effect, it took over the non-Bell assets or a part of the non-Bell assets of the Western Electric Company which happened to be in that form of investment January 1st, 1927.

By Commissioner Geiger:

Q. Well now, where is that now held, by the Western Electric?

A. Where is what held?

Q. The stock?

A. The stock of the Electrical Research Products Incorporated is owned 100 per cent. by the Western Electric Company.

By Mr. Herbert:

Q. What physical assets did Electrical Research Products take over other than these thirty million dollars of government securities? Did they take over any patents?

A. No.

Q. Did they take over any properties?

A. They took over small plant items like furniture and fixtures and things of that sort, relatively small amount, and then they took over some cash.

Q. Totalling eleven million?

A. Altogether eleven millions of dollars of stocks of subsidiary companies, the Graybar, the Northern Electric Company, cash and some minor items.

Q. Thirty million government securities?

A. Yes.

[fol. 5781] Q. And eleven million small items of cash and securities in Graybar and what else?

A. And the Northern Electric.

Q. And the Northern Electric; that is your Canadian subsidiary?

A. We don't own it entirely, we don't own the controlling interest there.

Q. When was that formed?

A. Northern Electric Company? Well, it is a successor of a former company, the wire and cable company and the Northern Electric Manufacturing Company, and the first companies were formed back in '97 or '98.

Q. When did the Western Electric acquire ownership of it?

A. We first acquired an interest in it, not ownership, we never had ownership, we acquired an interest in it about 1900.

Q. Controlling interest?

A. No, no, never a controlling interest.

Q. Don't have controlling interest in it?

A. Not now.

Q. Never had?

A. Never had.

Q. Is your interest in it now less than it was?

A. About the same, it is about the same as it had been for a number of years.

Q. Western Electric has been a minority stockholder of Northern Electric since 1900?

A. Around that date, of the Northern Electric or its predecessor companies.

By Commission Geiger:

Q. What profit does the Western Electric get from the operation of this forty-one million dollar company?

A. The Western Electric Company—this Electrical Research Products Company which was formed with that forty-one million dollars worth of assets carried on the business of the exploitation of the sound picture equipment [fol. 5782] business, and our profits from that company come in the form of dividends from the Electrical Research Products and also from profits on the sale of the manufacture of that equipment which the Western Electric Company makes and bills to the products company.

By Mr. Herbert:

Q. What company developed the sound pictures until 1927?

A. I beg your pardon, I didn't get the question.

Q. What company developed the sound pictures up until the creation of the Electrical Research Products?

A. That was a development of the Bell Telephone Laboratories.

Q. Bell Telephone Laboratories?

A. Yes, sir.

Q. Then who owned the patents on the Movietone equipment after Electrical Research Products began to function?

A. The patents are owned by the Western Electric Company on sound equipment.

Q. Does Electrical Research Products pay the Western Electric Company any royalty for the use of those patents?

A. They pay the Western Electric Company for the manufacture of the goods that we deliver to them. They do not

pay a royalty direct to the Western Electric Company, they pay a royalty to the A. T. & T. Company.

Q. On what basis does Electrical Research Products pay royalty to the A. T. & T. Company?

A. A percentage of the total royalties that they receive under their contract relations with the producer companies.

Q. Let me ask you this, does the Electrical Research Products manufacture this sound equipment?

A. Electric Research Products? No.

Q. Western Electric manufactures it all, does it not?

[fol. 5783] A. Except for some minor parts which are bought outside.

Q. Where it might purchase something?

A. Yes.

Q. What did Electric Research Products have to sell when it was first incorporated for $41,000,000.00?

A. It had to sell the sound picture equipment which was at that time being manufactured by the Western Electric Company.

Q. Which the Western Electric could just as well have sold direct, could it not?

A. I wouldn't say just as well. It is a great deal better to handle that sort of business through a separate organization.

Q. It had handled it itself up until the corporation was formed?

A. Very small volume of business prior to 1927.

Q. So that the research cost of developing up this sound equipment was carried by Western Electric and A. T. & T. up until Electrical Research Products was created, wasn't it?

A. Well, that—this development, as I understand it, came from other fundamental developments in connection with the telephone business. It is a by-product, in other words, of telephone development. Now, whatever is applicable to the A. T. & T. Company in connection with that development would be borne by them, and if there is anything in connection with the Western Electric Company, it would be borne by the Western Electric up to the time of the formation of the Electrical Research Products Company.

Q. And all that was charged by the Laboratories to the Western Electric for that development appears in "Cost of sales"?

A. All the development expense charges charged by the Laboratory to the Western Electric appears in "Cost of Sales".

Q. None of it appears in that less than one per cent. of [fol. 5784] non-operating?

A. No.

Q. So whatever amounts were spent in the development of the sound moving——

A. Sound picture equipment.

Q. Sound picture equipment, was paid either by A. T. & T. or by Western Electric?

A. You mean up to the time of——

Mr. Thompson: Pardon me, I want to make an objection. I am sure Mr. Herbert doesn't mean that. As I understand, the witness' testimony up to this point, he has said that there wasn't any conscious effort to develop the talking movie. Now, this question assumes that we went out and made a conscious effort to develop this side line and charged the cost back to the A. T. & T. and then organized another corporation and took it over for the corporation. That isn't the way it happened and I am objecting to the question because it assumes exactly what the witness has said was not true.

Mr. Herbert: I will ask the question again.

Commissioner Geiger: Overruled. Exceptions noted. We are fast approaching the time when we will adjourn. Is there any connection between the Western Electric and the Radio that brings in an income to the Western Electric?

The Witness: No, sir.

By Commissioner Geiger:

Q. The radio company pays the A. T. & T. or the several subsidiary Bell Companies for using their trunk lines?

A. Yes, but they—I understand that there is an arrangement between the broadcasting companies and the A. T. & T. Company for the use of their lines.

Q. Where does the profit for any of that come back to the Ohio Bell Telephone Company?

A. Well, that is something that I am not qualified to answer. It certainly doesn't come from Western Electric [fol. 5785] Company. I don't know anything about how it is handled.

Q. But you don't make the radio equipment?

A. No, sir. We make some broadcasting equipment, if you mean that, we make the Central Broadcasting Equipment which we sell to the broadcasting companies through our subsidiary, the Graybar Electric Company, but we do not make radio sets, receiving sets.

By Mr. Herbert:

Q. Mr. Gregory, did you state that Electrical Research Products was formed in '27?

A. Yes, sir, began business the first of January, 27.

Q. Was it the Electric Research Products that declared a dividend of $48,750,000.00?

A. Yes, sir.

Q. When was that?

A. That was declared and paid at the end of 1927. It was paid out of non-Bell assets, non-Bell earnings.

Q. Paid to whom?

A. Paid by the Products Company to the Western Electric Company.

By Commissioner Geiger:

Q. Where did the Products Company get them, didn't they get them from the Western Electric Company?

A. Got what?

Q. Its assets?

A. It got these assets from the Western Electric Company.

Q. Then it paid a dividend back to the Western Electric?

A. The Products Company was formed with a capital of a million dollars and a capital surplus of forty millions of dollars. During the year 1927, it earned on these non-Bell assets and earned from a revaluation of some of our securities in subsidiary companies sufficient so that it could pay these $48,750,000.00, which is really a liquidating dividend [fol. 5786] of non-Bell profits that we make in the Western Electric Company, if you follow it through, back through the formation of the products company.

Q. Who still owns that thirty million of stock, is that distributed——

Mr. Herbert: Government securities were thirty million.

The Witness: Thirty million of government securities.

Q. Where did that go to?

A. That was used as a part to pay the dividend to the Western Electric.

Commissioner Geiger: That is too deep for me.

By Mr. Herbert:

Q. So that early in 1927, Western Electric created a subsidiary wholly owned by it with assets of forty-one million and late in 1927, that subsidiary declared a dividend back to its parent of $48,750,000.00 out of non-Bell assets?

A. Non-Bell earnings and assets, yes, sir.

Q. And had that company not been created, the Western Electric would have had forty-eight million dollars additional profits to show in Exhibit 5 as non-Bell profits, wouldn't it?

A. Oh, no.

Q. Will you explain how?

A. These non-Bell earnings making up this forty-eight millions of dollars are, in part, this thirty millions of dollars that we have shown here in Exhibit Number 5 and they also go back prior to the very formation of the Western Electric Company in 1881, also includes the profits on the sale of the International Western Electric Company in 1925, all of these factors contribute to the total amount which was——

Q. Wait just a moment.

Mr. Thompson: Will you let him finish that sentence? [fol. 5787] The Witness: Contributed to the total amount and exceeded the total amount that was turned over to the Products Company in the close of 1926 at the time of the formation of that company.

Q. You say that the forty-eight million seven hundred fifty thousand includes the profit made on the sale of International Western Electric in 1925?

A. Yes, sir.

Q. Didn't you say that that was a sale price of sixteen million?

A. Yes.

Q. And how much of that was profit?

A. No, I said—I beg your pardon, I said the profit was sixteen million. The selling price was something like twenty-eight to twenty-nine millions of dollars.

Q. Back in 1925, the Western Electric sold International Western Electric to I. T. & T.?

A. Right.

Q. At twenty-eight million?

A. Twenty-eight to twenty-nine million.

Q. Or approximately that?

A. Yes.

Q. Of which sixteen million represented profit?

A. Right.

Q. That was not declared as a dividend or anything but carried in the surplus account of Western Electric, is that right?

A. That is right.

Q. In 1927, that was passed over into Electric Research Products?

A. Along with a lot of others.

Q. Along with a lot of others, and in the same years, it was passed back in the form of a dividend, which was eight million dollars higher than the original capitalization of Electrical Research Products Company, is that right?

A. Resulting from the earnings and revaluations of the [fol. 5788] securities in the year 1927.

Q. And following that declaration of a $48,750,000.00 dividend, what was the book value of the Electrical Research Products for 1928?

A. First of January, 1928, as I recall it, the book value of the stock was something like two and a quarter millions of dollars.

Q. Two and a quarter millions of dollars?

A. Yes.

Commissioner Geiger: Just in a word or two, what was the idea of forming this Research Company, turning over to it these assets and then immediately or almost immediately turning it back in the way of dividends, to enhance the profit or——

The Witness: Oh, no, at the time that the Products Company was formed, there was no idea of the declaration of the dividend at the end of the period. Our whole object was at that time to segregate in the Products Company, which was formed as our stockholders are notified in our annual report of that year, formed to take over these non-Bell assets of the Western Electric Company which had accrued over a period of years out of non-Bell earnings of the Western Electric Company, including profits on the sale of the foreign business. Then at the end of that

year, there were further accruals that came from interest on these securities and other items and revaluations of our investments and the Northern Electric Company and the Graybar Electric Company, resulting in earnings that year of something like ten or eleven millions of dollars, so at the end of the year, we had fifty-two million in our capital and surplus, capital one million and surplus fifty-one or fifty million, and we declared the dividend out of that surplus, [fol. 5789] which is really in effect a liquidating dividend of our non-Bell business which has been accrued and earned over the life of the business from 1882 up to date, including the sale of the foreign business.

And thereupon an adjournment was taken until 10:00 o'clock A. M. of the following day, June 18, 1931.

[fol. 5790] Thursday Morning Session

June 18, 1931.

And also R. H. Gregory, resuming the stand, continued his testimony as follows:

Cross-examined by Mr. Laylin:

Q. Mr. Gregory, will you please refer to your Exhibit Number 6, the first column, plant, I believe you stated, represent- book cost?

A. Yes, sir.

Q. Now, "merchandise," the second column, what does that represent, your inventory?

A. Yes, sir, average.

Q. Average, and on what basis?

A. That is averaged on the basis of cost or market, whichever is the lower. That is, by market, I mean where our materials are purchased outside, if the cost was ten cents, and the market was seven cents at the time of inventory, we would inventory at seven cents.

Commissioner Geiger: You will have to speak a little louder.

The Witness: If the cost was ten cents and the market was seven cents at the time of inventory, we would inventory at the seven cent price. That is a recognized practice and accepted by the income tax authorities.

Q. Now, as of what date is that inventory taken?

A. December 31 of each and every year.

Q. Now, does that same date carry through for each of the items enumerated on Exhibit 6?

A. These items, these figures for investment are the aver- [fol. 5791] age of the thirteen month periods; that is, I mean by that, that we average the monthly figures instead of simply the inventories at the beginning and end of the year. We take inventories only once a year, but the computation of the investment is a basis of the averages, monthly averages during the year. It is relatively little difference from taking the beginning and the end of the year.

Q. Well, now, will you apply your statement there to the three items of receivables, cash and current payables and explain to the Commission just how those figures in each instance were reached?

A. The receivables we will take for the year 1930 as being $2,918,000.00. That represents the average amount of receivables as shown on the books as of the first of January, 1930, the first of February, and so on, including December 31st of 1930. There would be thirteen periods and we add those up and divide them by thirteen and we get this average of $2,918,000.00.

Q. So that you simply take the thirteen months' period on each accounting day in each year and average them?

A. It is twelve months, but you see the thirteen points that we take.

Q. I see, the thirteen points. Now, with reference to those items, how do you divide those as between Bell and non-Bell business?

A. Well, these figures which appear on Exhibit 6 are those that are applicable to non-Bell business.

Q. Yes, I understand.

A. And then your question is as to how we divide the total investment of the company between Bell and non-Bell?

Q. On those three items?

A. Oh, on receivables——

Q. On receivables, cash and payables?

A. On receivables, they class themselves; that is, we know [fol. 5792] what are Bell customers and we know what are non-Bell customers, so there is no allocation there on receivables. Now, on cash, that is divided, as far as the supply department is concerned, that is a direct allocation

to the supply department, amount of cash applicable to non-Bell business. That which is connected with the manufactures of the Western Electric Company, cash applicable to that business must be apportioned between Bell and non-Bell in proportion to the cost of the sales to the two customers, two classes of customers of manufactured goods.

Q. You mean in proportion to the cost of sales——

A. Shop cost of sales.

Q. Shop cost of sales?

A. Yes, sir.

Q. Now, how are payables allocated?

A. Well, payables, the same explanation really applies to payables. Payables for the supply business are pretty clear and they classify themselves. Where they are payables that arise from purchases of raw materials that enter into the manufactures that would be allocated in the same way between Bell and non-Bell on the sale basis.

Q. Can you give that percentage of allocation?

A. Which percentage do you mean, as a total?

Q. In the various years, current payables, as between Bell and non-Bell business?

A. That is available, but I haven't it with me.

Mr. Thompson: Is that a request?

Mr. Laylin: No, I think not.

Q. Now, your cash item, how much does that vary in a given year, I mean roughly, does it build up during the year?

[fol. 5793] A. Well, it is very irregular. That is, at some times we may have considerable amount of money on hand, depending upon whether we have got new money in from our stockholders or new money borrowed from the banks, and then again it may be quite low if we have been making large expenditures for plant and in expansion.

Q. Now, is that cash figure one which is available for the declaration of dividends?

A. What do you mean by that?

Q. Would you declare dividends from this cash figure?

A. Oh, we declare dividends whether we had the cash or not.

Q. Whether you had the actual cash or not?

A. Sure.

Q. When is your dividend-declaring date?

A. The regular dividend is payable to stockholders di-

rectly usually about the 25th of the third month of each quarter and payable the last day of each quarter, the last day or the next to the last day of each quarter.

Q. The receivables represent receipts from brokerage business or supply business as well as the manufacturing business, does it not?

A. You are referring to this Exhibit 6?

Q. That is correct.

A. Receivables in Exhibit 6——

Q. I beg your pardon. Strike that out. In these inquiries I am directing to the general principles which will be applicable both to Exhibit 6 and to the proposed exhibit which covers a similar break-down with reference to Bell business?

A. Total operating business, total investment in operation?

Q. That is correct, yes. Now, the third column, "Receivables", which I presume will be in the other exhibit also——

A. Yes, sir.

Q. Represents receivables both from the manufacturing [fol. 5794] and the supply end of it?

A. Yes, sir.

Q. And your current payables likewise represent amounts owed by reason of supply and manufacturing?

A. That is right.

Q. As an accountant, why do you consider these elements of receivables and cash less current payables as entitled to an earning capacity in determining the amount of return on the investment?

A. The answer to that is this, that we feel that this represents the total investment on which we should earn, be entitled to our earning capacity, because in this way we get at the total amount invested in the business from moneys received from stockholders, from the surplus earnings of the company and from moneys borrowed on which we are paying interest. That is, we maintain that there is no difference between money which comes from the stockholders, or whether we borrow it from bond holders as affecting investment in the business on which we should be entitled to earn money. Of course, from the earnings thus obtained must be deducted the interest paid to banks and to bond

holders to determine the amount of money which is available for the dividends for the stockholders.

Q. Well, let's put it this way, let's assume that I am in the brokerage business and I buy a commodity for a thousand dollars, and that creates a payable, I owe for that, I turn around and I sell that for fifteen hundred dollars, which creates a receivable. Under that set-up the five hundred dollars would be part of the investment which would be applied as determining what the profit was, would it not?

A. The amount of money——

Mr. Thompson: Oh, I think I will object to that as purely a speculation.

Mr. Laylin: I am trying to get his theory on this, utiliza-
[fol. 5795] tion of these factors as entitled to earning capacity.

Mr. Thompson: I object to the question, first, in the interest of time because it is an argument, and, secondly, on the ground that it is perfectly obvious that the investment plus these other items set up on these exhibits are the proper base. Now, that is a question of law. I am not talking about whether the figures are accurate or not.

Commissioner Geiger: I think we can proceed without argument. We would suggest, we would permit the question and the answer, but we would suggest that the interrogator address more direct questions to the particular point rather than speculative questions. Let us get to the point at issue. We will permit that question.

(Question read.)

A. The $500.00, as I understand it, is the net earnings that you have made on that transaction. That would be, under our interpretation, part of the investment.

Q. And that would be part of the investment?

A. Yes, sir.

Q. Which your Exhibit shows as the basis for determining the percentage of profit?

A. That is right.

Q. Now, had that same transaction been accomplished without the extension of credit on either side and the profit accruing therefrom had been declared in dividends so that it was out of the company's records, would your percentage of profit be more or less than on the credit basis?

Mr. Thompson: I am going to object to that. It is just entirely outside the range of any applicable evidence. It is a mere speculation and conjecture and presents purely——

[fol. 5796] Commissioner Geiger: I think possibly it would be more a subject of inference and argument by counsel from the testimony that has been given. It may lead to quite an interminable amount of speculation in the testimony.

Mr. Laylin: If Your Honor please, that is just what we contend, that this is speculation right here, this Exhibit 6.

Commissioner Geiger: Well, shoot it right to him.

Mr. Laylin: That is what I am asking him.

Commissioner Geiger: You are cross-examining. Ask your questions a little more directly.

Mr. Herbert: If Your Honor please, it is a hypothetical question.

Commissioner Geiger: We will permit that question. Go ahead. Objection overruled. Exceptions noted.

(Question read.)

A. Well, now, you say "Without the extension of credit on either side." Now, what do you mean?

Q. I mean a cash business, if you had paid a thousand dollars for a given commodity?

A. And got $1500.00?

Q. And you had immediately gotten $1500.00 and that had been realized as a profit, and had been distributed to your stockholders, what would you be entitled to compute your profit on?

A. That is very simple if I get your question correctly. If you got $500.00 profit and you declared $500.00 in dividends, you are asking me how much you have got left?

Q. You have nothing?

A. Sure.

By Commissioner Geiger:

Q. What we would like to know is whether or not there has been any exorbitant profit worked out through the exchange of stocks or sales of property.

[fol. 5797] A. No, sir.

Q. If there has been just the buying of a piece of property at one price and selling it at an excessively high price, we want to know what that is. We want to know what are legitimate operating profits and not what are profits by

dealing in speculative stock valuations. That is the point we want to know.

A. There is nothing of that sort. There is no exorbitant profit in these transactions.

Mr. Laylin: Your Honor, as a matter of comment, I am simply questioning the accuracy of setting up as the investment, these various items because, of course, the larger the investment, the less percentage of profit.

Mr. Thompson: I didn't suppose that we were engaged in an argument of the thing now, because I would want to challenge that statement, of course, if we are going to argue it out now.

Mr. Laylin: I am not engaging in an argument, except this man is an expert on the subject, an accountant, and I am inquiring about his theories in setting up the exhibit, that is all.

Commissioner Geiger: But now, as I understand it, this exhibit concerning which we are now making inquiries refers not to the property of the Bell Telephone or Associated Companies, but to the property of the Western Electric Company.

Mr. Herbert: That is because, Your Honor, we haven't the detail. We are using this as an example.

Mr. Laylin: That is quite true, it applies only to Western Electric, but nevertheless I think the general subject matter of the inquiry now is what the profits were of the Western [fol. 5798] Electric on sales to the Associated Companies, and the profit could only be the percentage——

Commissioner Geiger: A little more remote than the value of the Bell property itself.

Mr. Laylin: If we express that in percentages, it must necessarily relate to the investment which they have set up.

Commissioner Geiger: You may proceed, but make it a little more direct.

Mr. Herbert: If I may ask one or two questions here, I would like to.

Mr. Laylin: Go ahead.

Recross-examination.

By Mr. Herbert:

Q. To refer to your Exhibit 5 a minute, Mr. Gregory—now, if the Commission please, we are discussing 5 and 6

because we haven't got the details comparable to that on Bell sales available at this time.

Commissioner Geiger: I see.

Mr. Herbert: Our line of questions is directed to the same point in both exhibits.

Q. You show 75,400,000 in sales in 1920?

A. Yes, sir.

Q. Now, have you available what percentage of that or what amount in dollars was jobbing——

Commissioner Geiger: Mr. Herbert, you say $75,400,000.00?

Mr. Herbert: 75,400,000.

Commissioner Geiger: Yes, that is it.

[fol. 5799] Q. Have you available what amount of that in dollars was done by your supply department on a jobbing basis?

A. Yes, sir.

Q. It is $66,020,000.00, isn't it?

A. Beg pardon?

Q. It is approximately sixty-six million, isn't t?

A. I don't have that in mind, but it would be the large part of that.

Q. Will you furnish us in detail from 1916 down to and including 1930, what amount of that sales column, in dollars, for each year, represents jobbing for the Western Electric purchased property and resold it?

A. Yes, sir.

Q. But assuming for this discussion then and as an example that sixty-six million of that seventy-five million was property purchased by Western Electric outside and then resold?

A. Yes, sir.

Q. Going over to the same year on Exhibit 6, 1920, if you show receivables of eleven million and payables of five million, receivables are close to twelve million and payables are slightly over five million, you have carried over into your average investment column close to seven million dollars as investment which you include as a base to compute your return on for that year, when if the sixty-six million figure which I have cited proves to be approximately correct, as we will determine when you furnish us the material, when

approximately six-sevenths of your non-Bell business that year was not done through any plant investment, but a credit investment, do you still say that that is the sound way to estimate the profit, that is, to compute your investment base in order to estimate your profit for that year? [fol. 5800] Maybe I have made my question too lengthy.

A. Well, I think I get what you have in mind. I think where you are in error, Mr. Herbert, is in your assumption that there is no investment in this jobbing business, no plant investment you stated in this jobbing business. Now, by jobbing business, we not only buy from suppliers of material which is shipped direct to our customers, but we carry large stocks of such supplies in our warehouses, so that there are all the expenses incident to carrying stocks.

Q. Your stocks appear in merchandise, don't they?

A. That is right.

Q. Thirteen million for that same year?

A. Yes, and that includes both Bell and non-Bell, but you said no plant.

Q. No, that is non-Bell only, thirteen million?

A. Thirteen million, that is right.

Q. That doesn't include Bell and non-Bell?

A. No, I said non-Bell, that is what I intended to say, of course. It is non-Bell business.

Q. How does that affect what we now ask you, isn't that an error, or rather an erroneous way to compute the investment which is favorable to the company?

A. Why——

Q. Or I won't say erroneous, but isn't that a method of computation which favors the company and tends to produce a low rate of return because your investment is fixed in that manner?

A. Well, if I understand you correctly, Mr. Herbert, you are asking me whether these receivables are not erroneously figured in some way or other?

Q. No, no, I don't mean that at all. I am saying that, not having the figures available, if it proves that my use of the figure sixty-six million for the year 1920 for an example is [fol. 5801] the correct figure as indicating the amount of business done by your supply department on a jobbing basis, these sales aggregating sixty-six million,——

A. Now, right there, Mr. Herbert, that sixty-six millions of sales would naturally result in receivables, wouldn't it?

Q. Yes.

A. Now, if we include in the receivables the receivables that are proper to that sixty-six millions, the profit in sales is correct, is it not?

Q. Repeat that.

A. The receivables resulting from sixty-six million dollars, we will say, we will have at any one time or average during the year ten millions of dollars, we always have owing to us from our customers on this jobbing business. We have a certain amount of money owing us. Now, the amount that is in the receivables, or this sixty-six million, taking your example, if it is ten millions of dollars, that ten million would be that part of the twelve million that is shown in Exhibit Number 6 for the year 1920 on the receivables.

Q. Mr. Gregory, let's start at this from a different angle. You certainly don't require the amount of dollars investment in the handling of a jobbing business that you do in the handling of a manufacturing business, do you?

A. Certainly not.

Q. Warehousing and transportation charges and sales costs are about your only—I don't mean sales costs, I mean the plant necessary for the warehousing and perhaps some transportation, all of your physical plant——

A. We are talking about receivables.

Q. I am coming to that. If you had a jobbing business [fol. 5802] which made sales of sixty-six million dollars in that year, the physical plant necessary to the conduct of that business wouldn't be anywhere comparable to that required for a manufacturing business handling sales of sixty-six million?

A. That is true. A manufacturing plant is larger, of course, than a distributing plant.

Q. Now then, still assuming the sixty-six million to be approximately correct for the purpose that we are using it, your manufacturing plant produced nine million dollars worth of goods which were sold to non-Bell customers in the same year?

A. You are taking that by deduction from this seventy-five sold to sixty-six?

Q. Yes.

A. All right.

Q. Now, going over to your Exhibit 6 for 1920, you have a manufacturing plant and that plant item, I suppose, includes all your distributing plants?

A. Right.

Q. Warehouses and so forth?

A. Right.

Q. Of five million dollars?

A. Yes, sir.

Q. You carry merchandise on hand which your inventory shows at the end of 1920 as $12,814,000.00, didn't you?

A. That is the average inventory.

Q. Over that year?

A. Yes, sir. I have just gone through that with Laylin.

Q. But you take inventory at the end of the year only?

A. Yes, sir.

Q. You say that is the average of inventory at the end of 1920 and at the end of 1919?

A. I mean it is actual average that was taken by count at the end of each year and by approximations during the [fol. 5803] year on the basis of monthly reports we have had.

Q. Just to get that very definitely, you took a physical inventory of merchandise on hand allocated to non-Bell business at the end of 1919, didn't you?

A. That is right.

Q. And you didn't take another physical inventory until December 31, 1920, did you?

A. That is right.

Q. Now, do you find this figure of $12,814,000.00 by adding those two together, and dividing by two, or just how did you do it?

A. As I have just explained to Mr. Laylin, I took the actual inventory say of January 1st of that year, then I took the approximate or estimated inventory, which is a statistical computation, as of February 1st, and so on, March, April, May and all the months of the year, until we got to the actual inventory at the end of the year.

Q. By a statistical inventory, what do you mean?

A. Well, I mean by that, you can get approximately the amount of your inventory if you know what your profits are and know what your expenses are and work backwards, you can get a result which must be your inventory. That is a recognized accounting method of doing that.

Q. You don't use the average of two inventories taken a year apart?

A. No, but in general, Mr. Herbert, there isn't very much difference between the two methods.

Q. Well now, to continue then, you show receivables of $11,800,000.00?

A. That is right.

Q. And as against that, you show payables of $5,200,000.00?

A. That is right.

Q. So that you carry over into your average investment column close to seven million dollars representing the dif- [fol. 5804] ference between your receivables and payables?

A. That is correct.

Q. You did a gross sales business of seventy-five million, sixty-six of which was goods purchased and re-sold?

A. On your assumption, yes.

Q. Yes, on my assumption?

A. Yes, sir.

Q. And you have previously testified that you made substantially less margin of profit on the sale of jobbed goods to non-Bell customers than on your sale of manufactured goods to non-Bell customers?

A. That is correct.

Q. Shouldn't there on that basis be a closer relation between your receivables and payables, or when you have available cash, by paying off the payables on this purchase of goods which you contemplate re-selling, don't you have the effect of increasing the relation between receivables and payables so that it goes over into the average investment as a figure higher in proportion than your spread of profit that you contemplate on a jobbed business?

A. It seems to me, Mr. Herbert, you are making it very hard. This is a very simple question, in answer to your question, that is what are the receivables on non-Bell business for this average period. All you have got to do is to look at the ledgers and you will find there the various customers, the amount that is owed. If you add those all up for the month of January and you add them all up for the month of February, March, April, all the way through, why, you will get a certain figure. You divide that by thirteen or twelve and you will get the average investment.

Q. All right, Mr. Gregory. Taking your total physical plant engaged in the whole non-Bell business which you show to be $5,037,000.00, sticking to this same year, 1920, [fol. 5805] if you added the customary amount of working capital, if that property was being appraised in the same

manner as the Ohio Bell Telephone property, for example, where you estimate the value of the property and you are using the book in that regard in the plant column and adding the usual intangible items to that, such as working capital and some allowance for going concern and so forth and so on, do you mean that that figure would come out at twenty-six million on that kind of a computation?

A. I don't know what you are asking me. If you figured the investment in the method that the telephone company figures their investment—well, now, I don't see as there is any pertinency to that sort of an inquiry here, because of the fact we are a jobbing business and that is a telephone business, entirely different method of doing business.

Q. Regardless of whether you see it or not, Mr. Gregory, will you give me your best judgment on whether or not it is——

A. I could answer you offhand right away, Mr. Herbert, that I haven't the slightest idea what a computation made in that way would result in, but I can say that the amount made this way is the correct way, it is the usual way for computing investment in this kind of business and these are the figures that are right.

Q. Well, in tangible, visible assets?

A. Intangible?

Q. No, I say, so far as tangible, visible assets of your company are concerned for that typical year we are using, 1920, it totalled $5,037,000.00——

A. Right.

Q. Other than that, it was a jobbing business, wasn't it, in fact, the physical plant of the jobbing business was in-
[fol. 5806] cluded in that figure?

A. Sure.

Q. And yet you use as a basis of investment on which to compute your return for the same year, twenty-six and one-half million, or five times as much?

A. Well, are you saying, Mr. Herbert, that we shouldn't consider merchandise, we should consider receivables, we shouldn't consider cash as a part of the investment of carrying on a supply business?

Q. I am asking you, working capital in the usual sense includes merchandise and it includes a reasonable amount of cash, doesn't it?

A. Right.

Q. But working capital does not include and plant nor no other item, asset of the company, includes the difference between receivables and payables, does it?

A. Yes, I should think so. Working capital; that is one way of expressing it, working capital less current accounts payable is the regular method of figuring that item in the investment of carrying on any business.

Commissioner Geiger: Mr. Herbert, before you pass from Page 6, may I ask one or two questions about it?

By Commissioner Geiger:

Q. It is somewhat confusing to me, Mr. Gregory, to read your totals at the bottom of your table on Page 6 in which you give a total plant of 104 million. Now, you never had a total plant of 104 million, did you?

A. No, that is just simply totalling those columns and has no significance other than as a total of those fifteen year periods, just for the purpose of relating percentages.

Q. The same thing is true of your merchandise?

A. That is right.

Q. Your receivables, your cash, your assets, your current [fol. 5807] payables and your average investment?

A. That is correct.

Q. It doesn't mean anything because you have continued with your total from one year to the other?

A. Yes, sir. It only has the significance, these figures have to be used in relating to the total earnings for the fifteen year period to get the percentage and it is put in here simply as a convenience for computation. If we hadn't given that, Mr. Herbert would have had to add them up in order to check our computation of the return on the investment.

Q. All right. You say that don't mean anything?

A. Except for that purpose.

Q. I observe quite a change in your inventories as years progress. We will start out with the year 1916 just as an example, it runs regularly until 1927 and then your plant account abruptly increases quite a considerable proportion of its value?

A. Yes, sir.

Q. Now, what happened there? You sold out to the Graybar in 1927?

A. Yes, sir.

Q. Well, why would your plant increase in the Western Electric?

A. Well, we formed the Graybar in 1925. That would be the year in which the Graybar would affect this.

Q. Yes, but the total plant was 20,820,000?

A. Yes, sir.

Q. Now, you sold it in 1925, yet in 1928, you have a plant of 10,455,000——

A. In that year, we began the manufacture of the sound picture equipment and that required quite extensive use of our manufacturing plant and it is the apportionment of a proper plant value against that sort of business which resulted in sales to our products company, Electrical Re- [fol. 5808] search Products Company, who in return distributed to the Sound Picture people.

Q. Then I understand your plant account and all these other accounts here are not the actual value of these several accounts owned by the Western Electric for both its Bell and its non-Bell service, but it is the amount you apportion to the non-Bell service?

A. In this Exhibit Number 6, it is the amount that we allocate to the non-Bell service.

Q. Well, then, would you tell me why your merchandise account is up in 1921 to twelve million and then when you allocate more of your plant account to the non-Bell system, your merchandise was at the lowest point, 2,804,000; the more plant you use apparently the less merchandise you use?

A. Well, in that particular year, we were building up to take care of this sound picture equipment. We have to have the plant before we get the merchandise. And so the plant investment is the first item of expenditure and merchandise comes in later. As you will notice, the next year we have jumped from $2,800,000.00 to 8,400,000.

Q. Yes, but what I wanted to get at is in 1928, the allocation of 10,455,000 plant account did not reflect the actual construction, did it?

A. No, sir.

Q. It simply allocated to the non-Bell business a larger portion of your plant than had theretofore been used for non-Bell business?

A. There was some construction in that year.

Q. But that didn't make up the major portion?
A. No, it didn't make up the major portion.
Q. It was merely a matter of allocation?
A. Yes, sir.

By Mr. Herbert:

Q. May I interrupt, when was this Point Breeze plant [fol. 5809] built?
A. That was started in January, 1929.
Q. You mean the Point Breeze construction hasn't materially affected the allocation of plant figures?
A. I am not clear whether that was '28 or '29, now.
Q. As a matter of fact, isn't that largely accountable for your change in that plant column?
A. I beg your pardon?
Q. Isn't that largely what accounts for your increase in your plant allocation?
A. Do you mean the Point Breeze?
Q. Yes.
A. No. The reason for it is the larger amount of use of our plant devoted to the sound picture business.
Q. You mean the plant was particularly increased, but in the development of the sound picture business you put some more of the plant over into the non-Bell work and took it off of the Bell work?
A. Took it off of the Bell.

By Commissioner Geiger:

Q. Well, the net result of all this is that Exhibit Number 6 does not actually represent the total amounts either of plant, merchandise, receivables, cash or current payables of the Western Electric, but it does represent what you claim is the proper allocation of that percentage of its several items which you have enumerated here to the non-Bell business?
A. That is correct.
Q. And it changes, as it does here, in large amounts between one year and another, not because you have larger or less assets or larger or less cash in the total assets of the Western Electric, but because you have changed the relative amount between the Bell and the non-Bell?
A. That is correct.

Q. Well, now, how do you make these apportionments, by the amount of business done, amount of sales made?

A. It is largely on the basis of—plant we are talking about, that is largely on the basis of the manufacturing cost [fol. 5810] of the sales which we make to Bell or non-Bell business.

Q. That is, you make this allocation after you have ascertained what it cost you to make certain amounts of goods, a portion of which go to the non-Bell and a portion of which go to the Bell?

A. Yes, sir.

Q. And before you have actually made those sales?

A. Well, we do it currently, practically, because we know what the cost of those sales are, what our profits are month by month, approximately, at the end of the year, we have it accurately.

Q. Let me ask you this, just generally, so as to get an idea; suppose that in the years as you approached the year 1929, you had goods on hand and plant built that you had built in the years when the prices were not so high, do you then increase your allocation to the non-Bell of the value of your assets because the then price of the assets were higher, or would you base it on the cost of manufacturing, if lower than the market value of the goods at that time? In other words, would you take cost or market value, whichever was the lowest?

A. Well, we take the cost of the sales in any one year upon manufactured goods to the Bell and non-Bell. Say that percentage is seven per cent non-Bell and 93 Bell, then we would allocate 93 per cent of that plant against the Bell business and 7 per cent against the non-Bell business. Now, in the next year, we may find that there has been an increase in the non-Bell business and the Bell business we will say remains exactly the same in dollars, but the per cent is changed. Non-Bell now is ten per cent of the total, the cost of sales, and the Bell 90 per cent. Then we would allocate in that year 90 per cent. Then we would allocate [fol. 5811] in that year 90 per cent of the business of the plant investment against Bell and 10 per cent against non-Bell.

Q. Well, let me ask you this, so as to get it down quickly. Then as a matter of fact, the assets that you allocate to the Bell and the non-Bell is constantly fluctuating according

to the amount of goods you manufacture for those two different groups of customers?

A. Yes, sir. In other words, usage of the plant between the two classes of customers determines the allocation.

Q. Well, now, that is so in reference to all your Exhibits where you have the amount of per cent return on investment and so forth on Page 1 for your sales and net profits to the Bell business?

A. Yes, sir.

Q. That is not any other thing than to arrive at by a proper adjustment, as you claim, between the property then devoted to the Bell and the non-Bell?

A. Yes, sir. It is a pro rata method of calculation.

Q. On page 5 you have the per cent of return on investment for the non-Bell business?

A. Yes, sir.

Q. And on Page 1, you have the per cent of return on the investment for the Bell business; that is right, isn't it?

A. Yes, sir.

Q. Now, we see the effect of this, but tell us whether or not we can rely upon those per cents, because as you will observe, the per cent of the return on investment for the Bell business is always or practically always much lower or substantially lower than the per cent of the return on the investment on the non-Bell business?

A. Yes, sir.

[fol. 5812] Q. Let's be frank about that, is that just a kind of an adjustment of figures so as to make it appear that way, or is it actual cost from a close analysis of the business you do between the two customers, the Bell and the non-Bell?

A. I think I can answer you in a way which will clear that up perfectly, Your Honor. These figures that we show here of earnings for Bell and non-Bell business are earnings that we have computed year by year, not with this case in mind at all, simply from the viewpoint of the management now, what we are accomplishing on each class of business. We hadn't any idea fifteen years ago that we were going to appear here today in the Ohio rate case and we have no idea that we would ever be brought into these cases. But we did want to know how much money we were making on each business because if it wasn't profitable, we wanted to discontinue it, we wanted to discontinue that amount of

the business which wasn't profitable, so these figures are based year by year on the computations and the analysis and the allocations that we have made fifteen, fourteen and so on years ago, and I have a statement in New York which will show that on the Bell business in 1916 that the net profit was $2,140,000.00, I looked that up the other day to see whether that exact figure was there, and I saw it just before I came out here. It is a general statement which we made up fifteen years ago.

Q. Can you tell us whether or not the larger per cent of profits which you show here to have been made on the non-Bell business over the Bell business is a result of your having received a larger purchase price or a larger price for the goods sold to the non-Bell than you do for the goods [fol. 5813] sold to the Bell?

A. In relation to investment, yes. You will notice that as far as the profit on sales are concerned, during these two years that the net profit on sales on non-Bell business is four and one-half per cent, while on Bell business it is 4.9. As far as sales is concerned, we earned .4 per cent more on Bell than we did on non-Bell. But there is a very much larger investment in the Bell business because of the manufacturing factor. So when you come to a return on investment, the investment being smaller on the non-Bell business, we get a higher return on the non-Bell business, 10½ per cent as compared with seven per cent on the Bell business.

Q. I see. But let me ask you, what we are trying to get at fundamentally, is whether the Western Electric has been making an undue profit out of its business with the Bell and Associated Companies. Now, it seems to me to get down to this final question, do you get more money out of the same class or quality of goods or the goods that it takes you the same amount to manufacture, from your sale to the Bell Company and its Associated Companies than you do in the competitive field of the sale to the non-Bell people; who gets the best price? That is the final question?

A. The best price of our manufactured goods is given to the Associated Companies.

Q. That is, they get a lower price from you?

A. Yes, sir.

Mr. Herbert: There has been no dispute about that in this case.

Mr. Thompson: Oh, I beg your pardon, sir. May I ask just one question?

Commissioner Geiger: Now, is that what we are trying to [fol. 5814] get at?

Mr. Herbert: If Your Honor please, what we are trying to get at is whether these exhibits truthfully and fairly portray the real rate of return on the gross volume of business done, and I contend that they are so interlocked and dovetailed that in order for this Commission to satisfy itself as to the correctness of Exhibit 1 or any of the other exhibits, it has got to know these underlying facts, it has got to know whether the total cost of the business which we now have developed, the business they say now, their operating business, carried the total load of 93 per cent of the total cost of running the Western Electric Company. The Western Electric Company is a holding company. It received eight million dollars last year out of what they term non-operative revenue and it received twelve million dollars out of what they term operating revenues. But the operating cost of the Western Electric Company was charged 93 per cent to the Bell business. Now, that is the kind of stuff that we hope to bring out.

By Commissioner Geiger:

Q. Why do you charge 93 per cent of the cost to the Bell business when the Bell business doesn't show on these sheets to have been as big as your non-Bell business or to have produced as good a revenue? Have you answered that question before? If you have, don't answer it again.

A. I think I have answered it in a little different way, but I am very glad to answer it again. Mr. Herbert is confused in this respect, Your Honor. He is saying that we should assess or assuming that we should assess a large part of our expense against the non-operating end of the business.

Mr. Herbert: I am not assuming anything, Mr. Gregory. [fol. 5815] The Witness: He is implying that, that is, he is saying on the other hand that we are not assessing but a very small part of our expense against the non-operating end of the business. Now, the facts are these: The operating end of the business requires the largest amount of expense to be incurred. The non-operating end of the business consists of receiving dividends from our subsidiary companies. Now, there is not very much in the way of

expense of our departments incurred in connection with the receiving of dividends from our subsidiary companies.

By Mr. Herbert:

Q. May I go right to a specific example for a moment? Mr. Stohl is your first Vice President, is he not?

A. Yes, sir.

Q. At a salary of $60,000.00 a year?

A. Yes.

Q. What is his salary as President of Teletype?

A. He has been Teletype's President since the first of October, 1930.

Q. And what is his salary as such?

A. He is not getting a salary, from the Teletype operation, but the Teletype Corporation is being charged for a proper proportion of his salary, dependent upon the time that he devotes to that business. He hasn't advised me as yet as to the amount of that.

Q. Up until now, however, his salary appears, 93 per cent of it, in the total cost of sales column on Exhibit 1, doesn't it?

A. His salary would be included—his total salary would be included in the two exhibits together.

Q. I cite that as an example. Is that the only instance in your company where one of your executives is an executive in one of the subsidiaries? As a matter of fact, all of your executives are interlocking executives in other subsidiaries, aren't they?

[fol. 5816] A. There are very few. But I want to say this, Mr. Herbert, that for all the services which the Western Electric Company renders to its subsidiary companies, it makes a charge to those companies for the time devoted to that business.

Q. And have you the detail where that is clearly shown in addition to your statement on the witness stand?

A. I haven't here, but it is available.

Q. It is available?

A. Yes, sir.

Q. For our accountants?

A. Yes, sir.

Mr. Herbert: You see, Judge, we can go forward with a line of examination in this fashion or we can lump it in the manner in which we have just now asked a few questions, but I contend that the whole program is so big and so com-

prehensive that what we are seeking to do is by cross-examination either verify or refute the conclusions that have been made in these exhibits, and that is why our range of cross-examination, while it may appear to be terribly broad, it all comes back to the question of "Are the allocations right?"

Commissioner Geiger: Well I think there is a good deal in that. Let me ask just one or two broad questions and see if we can strike anything that will throw light on it.

Commissioner Geiger:

Q. Now, we have the Western Electric and we have a great many subsidiary companies of the Western Electric. There are officers who are officers of the Western Electric and likewise officers of the subsidiary companies?

A. Very few that are interlocking.

Q. Well, assuming that there are. Is there anywhere a duplication of salary by which a person who is getting a [fol. 5817] salary from the Western Electric also is getting a disproportionately large salary in some of the subsidiaries?

A. Any officer of the Western Electric Company is paid by the Western Electric Company. If he devotes part of his time to other companies, we make a charge to those companies for the portion of his time, but the salary that is shown on the Western Electric Company books is his total salary.

Q. Sole and only salary?

A. Yes, sir.

Q. Now, when you come to apportioning the expenses to the operation of the Western Electric between its non-Bell business and its Bell business, you have followed, you think, the method that you have been pursuing for years?

A. Yes, sir.

Q. And that it is a correct showing as to what proportion of these expenses should be borne by both or either of these separate characters of business?

A. I have personally supervised this method of allocation for nearly 23 years and was connected with it before that time, and of course, we make changes as times develop, but in a sense, the principle is the same and I feel to the best of my judgment is correct, and this allocation also has been gone over by our certified public accountants for this fifteen year period and they have stated that it is correct.

Q. Well, it is no doubt correct as certified public accountants view it, but what we must get at is this, Mr. Gregory, whether or not these great companies are shifting a less burden or a greater burden upon their business that is devoted to the service of the public than should be borne by them, whether you are shifting some of the burden on your non-Bell matters which should be borne by the Bell matters or vice versa?

[fol. 5818] A. We have attempted to make an absolutely fair, unbiased allocation of the expense and cost of the business between the two classes of customers.

Q. And when your exhibits here show a very sudden, marked change between different items at different dates, as allocated to the non-Bell against the Bell, that is based upon actual manufacturing costs of the articles you make or charges of those two things?

A. Yes, sir.

Q. Where you have lost by reason of the fact of the decline of prices or matters of that sort, have you thrown on the Bell Company operation an undue portion of the burden of the loss?

A. No, sir, and I will give you just one example. In 1921, which was a depression year and there was a great fall in prices, commodity prices during that year, our Bell business held up pretty well. The non-Bell business suffered very materially in volume and suffered very materially in shrinkage in the inventory because of the fall in price and we took a loss against non-Bell business in that year of approximately three millions of dollars, which resulted in a net return on investment in the red of 9.8 per cent in that particular year while the Bell business for 1921 showed a return on investment of 8.9 per cent.

Mr. Herbert: May I inquire right in that line, Your Honor?

Commissioner Geiger: Well, let me just ask the converse.

By Commissioner Geiger:

Q. When the reverse happens and prices of material go up, which you have bought at a less price, do you make the proper and correct adjustment between the Bell and the non-Bell?

A. Yes, sir.

[fol. 5819] Q. As to the advance in your inventories by reason of advancing prices?

A. Under our system of accounting, we take no profits until the goods are sold, so that we would get that profit—we would get no additional profit, of course, unless the price to the customer goes up as a result of that addition in price than we would if there was no increase in the raw material price.

Commissioner Geiger: All right.

By Mr. Herbert:

Q. You were just stating the situation that occurred in 1921, Mr. Gregory?

A. Yes, sir.

Q. Which shows 9.8 loss on investment that year, is that right?

A. Yes, sir.

Q. That was at the time when you had a very large stock of merchandise on hand, wasn't it?

A. Yes, sir.

Mr. Thompson: You refer, Mr. Herbert, to the loss on the non-Bell business?

Mr. Herbert: Precisely.

Commissioner Geiger: What number are you working on?

Mr. Herbert: 5 and 6.

Q. You say three million dollars was charged off on inventories?

A. Roughly there is three million merchandise loss in that year on account of shrinkage in prices of inventories and over stocks.

Q. Well, you wrote it off on your books; isn't that the way you did it?

A. Yes, sir, due to the conditions it made it necessary for us to write it off.

Q. That was all done in 1921?

A. That was the year of the depression, you remember.

Q. Well then, on the basis of your earlier prices, you mean [fol. 5820] this 12,529,000 as it appears as of 1921, merchandise on hand, would have been fifteen million; is that it?

A. Yes, that is correct.

Q. Or did you write it off in '22, when your merchandise drops to 6,700,000?

A. In '22, we disposed of a large part of that.

Q. At the reduced prices?

A. Yes, sir.

Q. And during that same period——

A. In '21 is when we disposed of it—yes, at reduced prices, you are right.

During 1921, during the time when you were having trouble disposing of the merchandise at the then prices there was no change in your prices to the Associated Bell Companies, was there, appreciable change, I mean?

A. I don't recall as to what the situation was in that particular year, but the general policy has been to reduce prices to the Bell Companies.

Q. Well, had you treated the Bell sales that year, the Bell products, the same as you did the non-Bell, you wouldn't have been able to show an 8.9 return for that year, would you?

A. Well, the answer to that is this, the loss in 1921 on non-Bell business is due primarily to the fact that we had large inventories and a falling off in volume of materials not of our manufacture, supplies, that was the jobbing end of the business that we have been talking about. Now, that sort of situation did not apply to the Bell business. You will notice in the Bell business during that year, that the volume of sales was slightly higher than it was in 1920, 142 million, as compared to 130 million in 1920, while the volume of non-Bell business dropped from 75,400,000 to 46,880,000.

Q. Of which thirty-six million was jobbing business, [fol. 5821] wasn't it?

A. I haven't that breakdown here. We can give it to you.

By Commissioner Geiger:

Q. In 1921, where you show a loss in your non-Bell, you show a profit of 8.9 per cent. on Sheet Number 1 in your Bell?

A. Yes, sir.

Q. Now, you have testified heretofore that the Bell has been favored in prices and had lower prices than the non-Bell outside business. Now, during that year of the depression, did you, as the Western Electric Manufacturing Company, sell to the Bell Companies your manufactured goods at a higher price than you sold it to outside non-Bell companies?

A. Just the contrary, Your Honor, we continued to sell our manufactures to the outside, to the non-Bell trade at higher prices than we would to the Associated Companies.

Q. Well, I understand, that is generally your proposition, but during the year of the depression in 1921, did you do that?

A. Yes, sir.

Q. And in spite of doing that, you showed a profit of 8.9 for Bell business and a loss for non-Bell business?

A. Yes, because the loss, Your Honor, on the non-Bell business was in other than the manufacturing end of the business, it was on the jobbing business of electrical supplies and fans and conduit, line wire and so forth.

Q. Well, didn't you furnish those to the Bell Companies?

A. To some extent.

Q. Well, you furnished all they bought, didn't you?

A. Yes, but on the Bell Company business, on supplies of that sort, our contract calls for a cost plus basis, that is, we act as far as the purchase——

[fol. 5822] Q. Let me follow that just a moment. You have always had with the Bell or Associated Companies a cost plus basis which prevents you from losing on anything sold to the Bell, but as to the non-Bell, you are in the open competitive market and you can't regard the cost plus, you must sell as the market happens to be; is that correct?

A. We have a cost plus basis arrangement or we had in those years with the Associated Companies on supplies not of our manufacture, but not of our manufactured goods. There it is the established price basis.

Q. Now, let me ask you one other question. Do you know whether or not the Bell and its Associated Companies bought from the Western Electric goods which they were required to use and paid the Western Electric a higher price for those goods than they could have purchased the same or equivalent goods in the open market?

A. I think the answer to that is this, Your Honor, that the goods that the Telephone Companies buy not of our manufacture are mostly specification goods made upon specifications of the telephone company and they are not of a character which are comparable with outside supplies, that is, the largest part of it, so that there can be no exact comparison on those particular items.

Q. Why, they buy a lot of wire and a lot of various equipment?

A. Yes. On wire, though, undoubtedly we sold it to the telephone companies in those years at what it cost us in

that particular year, plus the percentage for our commission, our agents' commission.

Q. What I would like to get at, and the Commission would like to get at is this, whether or not the Western Electric [fol. 5823] Manufacturing Company used the Bell and its Associated Companies as a safe market which always produced a profit and no hazard and the only hazard would be in the competitive business, and dropping prices in the market that was not the Bell market, but the outside market?

A. In general, Your Honor, our policy is to keep our prices down to the Associated Companies. Now, in the recent years, in the last year we have been compelled to increase our prices.

Q. To whom?

A. To the Associated Companies.

Q. Yes.

A. Now, that is contrary to the trend of the times in these particular times, but it is due to the fact that we have overdone the reduction in prices in previous years; that is, in 1929, we made a large reduction in prices, July, 1929, because at that time, we had a program ahead of us of a large volume of business for 1930 and '31 and '32, and we figured if we got that volume of business, we would earn an undue return on the investment, if we didn't make reduction in prices, so we made reduction in prices and then came the crash and we found a falling off in business of fifty million dollars the first year and over a hundred million dollars this year from last year, and it was necessary to increase prices.

Q. Now, let me ask you right there, your relation with the Bell Companies, that is, the Western Electric, is such that irrespective of the fact that you may have had a price list fixed and a contract made for 1931 and 1932, which would have produced you a profit provided the amount of business that you anticipated would have been done, irrespective of that, your relations with the Bell Company are such that you can go to the Bell Company and say, "Now, [fol. 5824] in spite of that contract, that we made with you, the prices must be increased because the volume has decreased and we will just cancel that old contract which we made for 1931 and 1932, and raise the prices to you and you will have to pay it."

A. Well, we have to live up to our contracts, Your Honor,

but most of the business is done on current orders and out of stock, and of course, on that, any kind of an arrangement is open and if we go to the telephone companies and say that our volume of business has fallen off a hundred or 150 millions of dollars, we have got this plant which is built to meet your requirements as a result of estimates made by you, that you would need these requirements over a period of years, and now you are not giving us the business, we need some relief, and in view of the fact that we have reduced prices so materially over this ten year period and, as is now apparent, unduly, we should get an increase in prices——

Q. In other words, I am not saying that it is at all improper, but the Western Electric being primarily devised to supply the Bell Company with its material and this outside matter being more or less a subsequent development, that your principal view is to keep the Bell in good shape, supplying it with material at a price which will produce you a reasonable profit, but never a loss, you adjust it between you so you don't make any losses, you might have a contract with outside buyers which would make you a loss, and you couldn't get out of the contract,——

A. But it is a matter f bargaining, Your Honor, and it is sometimes quite difficult to carry a bargain on in these times.

Q. Well, I don't say that is at all improper, but I say [fol. 5825] would you say that a close association one with the other would lead you to the position that you can adjust your affairs so your run of profits would not be greatly——

A. It undoubtedly tends to stability of the Western Electric Company's business.

Mr. Thompson: Along that line, may I ask just one question, Your Honor?

Commissioner Geiger: Yes.

By Mr. Thompson:

Q. You look ahead to doing the business for the Bell Associated Companies by way of supplying them with telephone apparatus, and equipment at such times as they demand it and you provide a plant to meet these expected demands as they are furnished you by these Bell Associated Companies; is that true?

A. That is correct.

Q. Ordinarily, when you sell a large amount, we will say, of central office equipment, that is a matter of contract between you and the telephone company as to the price?

A. Yes, sir.

Q. And depends upon the general conditions then prevailing?

A. Yes, sir.

Q. Now, it is a fact, isn't it, Mr. Gregory, that in meeting what you thought was the obligation to be ready to supply telephone apparatus and equipment, you made such a large investment in new plant during the years 1928 and '29, that even with your ability to adjust prices measurably in 1930, your profits went down to 4.3 per cent. on your investment?

A. That is correct.

By Commissioner Geiger:

Q. Just following that one question there, turning to your Sheet Number 1, we find that in 1925, you made a per cent. return on investment of ten per cent., in 1927, 10.1 per cent., 1928, 10.7 per cent., 1929, 8.5 per cent., 1930, you drop to 4.3. Now, generally, without going into detail, what was [fol. 5826] the cause of your particularly profitable years in 1925, 1927 and 1928, was it the amount of business you did or the extra prices you charged the Bell or what?

A. It wasn't the extra prices we charged the Bell, because in those years we made reductions in prices, as I remember it. We made reductions over this whole ten year period and I think some were made in those particular years. But the amount of business, of course, we do, does have a bearing on it, and that figure in those years, you see '25 is 226 million, and '27 is 241 million and '28 is 267 million, there was an increase of business in those years and we were doing that increasing volume with the plant facilities that we had at that time, which meant that we were working that plant in some cases 24 hours a day and we were working our machinery 24 hours a day at times, and the result of that, of course, is a lower cost and results in larger earnings for the Western Electric Company.

Q. Well, but that don't seem to bear out by your—what figures were you referring to?

A. I was referring to the sales figures as referring to volume, 226,700,000 in sales for '25, 241 million for '27 and 267 million for '28. That shows that there was a——

Q. Yes, but the trouble with that is that in '29, you had 372 million, which was the highest amount you had, and only made 8.5 per cent., and in 1930, you had 338 million and you made 4.3 per cent.

A. Yes, sir.

Q. All of which were higher than 1925 when you made 10 per cent. and 1927, when you made 10.1 per cent. and 1928, when you made 10.7 per cent., so I would say that on your own showing, that the amount of sales didn't seem [fol. 5827] to have a great deal to do with the per cent. return on investment?

A. That is only one factor, Your Honor.

Commissioner Geiger: Well, all right.

By Mr. Thompson:

Q. What is the other factor?

A. I gave one factor in those particular years. Now, you have brought in '29 and '30, which were not in your original question, if I understand it. Now, you bring in 1929, there was a very material increase in volume of business and it was in that year that we were expanding very rapidly our plant. We took on during that year or increased our force something like fifty or sixty per cent. of our productive labor. In one month of September, 1929, we took on 7500 people and let go 5000 in that particular month. Now, that is just an illustration of how much efficiency you can get, that is, under those conditions, with labor. The result is that in spite of an increased volume in business, in spite of attempting to get out the product for the Bell system, our costs went up very unduly because we had such a large percentage of our force in-experienced in our manufacturing plant.

By Commissioner Geiger:

Q. Well, the net result of that is that the sales have no fixed and unvarying effect upon the amount of your profit?

A. That is one factor tending to make an increase in profits.

Q. All right.

A. But there are a lot of other factors which might turn the table the other way.

And thereupon a recess was taken until 1:30 o'clock P. M. of the same day, (June 18, 1931).

[fol. 5828] Thursday Afternoon Session

June 18, 1931.

And also R. H. Gregory, resuming the stand, continued his testimony as follows:

Cross-examined by Mr. Laylin:

Q. Mr. Gregory, referring just for the moment again to your Exhibit 6, I should like to ask with reference to the cash item, with which I assume a comparable figure will appear in your proposed exhibit with reference to Bell business,——

A. That is right.

Q. What are the elements of that item? In other words, does that represent cash in bank?

A. Yes, sir, and on hand, of course.

Q. And on hand?

A. Yes, sir.

Q. That is the only thing that it represents, cash in bank and cash on hand?

A. That is right.

Q. Are there any earnings accrued on that?

A. There might be interest on bank balances.

Q. What do your earnings on cash balances amount to?

A. Oh, a relatively small amount. I don't carry it in mind.

Q. Has there been any consideration of that element of income taken either as a deduction from your cost of sales or otherwise?

A. It is so treated.

Q. It has been so treated?

A. Yes, sir.

Q. So that that element has been segregated out by that method of deduction from cost?

A. That is right.

[fol. 5829] Q. Have you the detail which you can furnish with reference to that earning of the cash item?

A. That would be a computation which we would have to make. It can be done.

Q. It was made, was it not?

A. As a whole. Well, it was done in this way, that all interest received from all sources whatsoever, including this item, was deducted. If you want to know what that is spe-

cifically, it would mean a computation to find it out. It can be done; it is there.

By Commissioner Geiger:

Q. Mr. Gregory, have you an exhibit of the Bell business for the years 1916 to 1930 comparable to the Exhibit Number 6 of the non-Bell?

A. Mr. Herbert has made the request for that and I have agreed to give it to him.

By Mr. Laylin:

Q. Mr. Gregory, your Exhibit Number 1, total cost of sales column, could you furnish conveniently an exhibit which would, taking a typical year, any year, say, from 1925 to 1930, would show in detail the various accounts from which the aggregate is reached here of total cost of sales, together with the apportionment between Bell and non-Bell business, coupled with in addition, a description of the method of apportionment?

A. That could be done. Of course, I am in doubt as to how much detail you have in mind. It is a long job if you mean going back to original individual records. It is less a job if you don't require so much detail.

Q. Well, I think we should simply have it in reasonable detail. I don't want to impose on you at all.

A. I can give it in the form which was the basis of these statements. That may not be all that you want, but it is back of these statements.

[fol. 5830] Q. Well, it may, of course, it would be necessary to examine it to determine whether there are any additional factors we would like to inquire into?

A. We can start off then with that.

Q. Yes, if you will supply that.

Mr. Thompson: You will leave the choice to Mr. Gregory of any year which he regards as typical between 1925 and '30?

Mr. Laylin: That is right.

Q. And may I inquire further, Mr. Gregory, with respect to that, if we have a typical year, are you prepared to say at this time that the same principles have been applied throughout the number of years supplied by your exhibit?

A. Yes, sir.

Q. Mr. Herbert suggests that we have that as to the years 1925 and '30, so as to have it concrete?

A. Two years?

Mr. Laylin: Yes.

Mr. Thompson: Instead of saying a typical year, you say two years, '25 and '30?

Mr. Laylin: Two years, '25 and '30.

By Commissioner Geiger:

Q. Mr. Gregory, while they are passing to something else, taking your Exhibit Number 1 and your column headed "Sales", and your column headed "Total cost of sales", now, observing this, you would rather gather the fact that the cost of sales, for instance, in 1916, your sales were only 73,915,000, your cost of sales was 71,000,000?

A. Yes, sir.

Q. And 1917, you sold 104 million and the cost was 102 million?

A. Yes, sir.

Q. And so forth, all the way down the line, the total being for the entire period 2,887,000,000, and the total cost, 2,746,- [fol. 5831] 000,000, or a net profit of 141,000,000. Just what do you include in the cost of sales, is that the cost from the beginning of the manufacture of the thing you sell?

A. Yes, it includes the amount that we pay for labor, the amount that we pay for material, the amount that we pay for overhead in our manufacturing department, it includes all the development expenses, it includes all the distribution expenses, it includes the general expense, administrative expense of the company, and it includes Federal taxes, and there is a deduction from that item, from the total, for interest received about which we have just been talking.

Q. So that what you have designated "Total cost of sales" is all expense incidental to the manufacture and distribution of this product that you have sold each year?

A. Yes, sir.

Q. And the overheads properly apportioned to it?

A. Yes, sir.

Q. Now, were there in any of those sales a per cent to someone for selling?

A. Per cent to someone else for selling?

Q. Commission for selling?

A. Of course, we sell directly to the Associated Companies and we sell also directly to our own customers except where we sell in these later years through distributors.

Q. We are talking about Sheet Number 1, that is Bell business?

A. That is Bell business. There is no commission.

Q. No extraordinary charge of any kind in there?

A. No, sir.

Q. No intermediary that makes a profit?

A. No, sir.

Q. No subsidiary to whom the manufacturing company sells it and they sell it then to the Bell Company?

A. No, sir.

[fol. 5832] Q. It is all straight expense of manufacturing and distribution?

A. Yes, sir.

Q. And your books show these figures?

A. Our reports show these figures. This is an allocation, Your Honor. The books would show the combined profits of the company, which is Bell business, non-Bell business and non-operating business. This exhibit that we are looking at is the amount we show as applicable to the Bell business.

Q. I see.

A. But the books won't show that.

Q. Have you a non-Bell sheet here with which we can compare the costs of sales as against the sales?

A. We have no such exhibit here. It can be obtained by deduction from an examination of Exhibit Number 5. The sales are shown there and the net profits. The cost of sales would be the difference between Column 2, "Sales", and Column 3, "Net profits." For instance, in 1916, the cost of sales would be 33,072,000, less 1,730,000, which is 31,342,000. You could do that all the way down, and we would get the total cost of sales on the non-Bell business, similar to that shown on Exhibit 1 on the Bell business.

Q. That hasn't been worked out?

A. No, sir, not in my exhibits.

Q. Well, if it were worked out, would it or would it not throw light upon the relative cost of production and sales of your Bell business with your non-Bell business?

A. No, sir, no more than—this Exhibit Number 5 shows the essentials without the necessity of that column.

Commissioner Geiger: All right, go ahead.

By Mr. Laylin:

Q. May I inquire, Mr. Gregory, with reference to total [fol. 5833] cost of sales whether there is incorporated in there any cost for development of new processes, new products?

A. Yes, sir.

Q. Now, what are those factors of cost, are they expenditures in your own laboratories or are they expenditures to other corporations for that purpose?

A. The development cost that we incur is an expenditure that is made by the Bell Telephone Laboratories, which is in part owned by the Western Electric Company and in part owned by the American Telephone & Telegraph Company.

Q. How long has that arrangement been going forward?

A. The Laboratories was formed, that company was formed in 1925, that is, they began business in 1925. Prior to that time, the same sort of development work in lesser degree was carried on by the Western Electric Company as a department of the company.

Q. So that both prior and subsequent to 1925, there has been included in your tabulation in Exhibit 1 a proportion representing the proportion of Bell business for development work?

A. Yes, sir.

Q. As an operating charge?

A. That is correct.

Q. Taking the years from 1925 to '30, inclusive, what has on your Exhibit Number 1 been the return on Bell business, Mr. Gregory? Well, that is a weighted average, I suppose.

A. Yes. It is easily computed, but I would have to do it right from these figures.

Q. In the neighborhood of eight per cent, is that not correct, approximately?

A. I should assume so. I don't know definitely.

[fol. 5834] Mr. Thompson: Now, what years were you asking?

Mr. Laylin: For '25 to '30, inclusive.

Recross-examination.

By Mr. Herbert:

Q. I don't know whether we have requested it before or not, but I would like to have you also furnish us the detail in this total cost of sales column of that portion of your income tax check which you have forwarded each year to the A. T. & T. Company on Bell business.

A. As I understand, Mr. Herbert, what you want is the amount of income tax which is included in this cost of sales on this Exhibit?

Q. That is correct. I believe you testified earlier that you include in making up your total cost of sales only the exact proportion of your income tax which you actually paid or expected to pay for any given year?

A. It is a proper amount that is applicable for that particular year, and would be the proper proportion of the amount paid for that year.

Q. That is particularly on the Bell business I want that?

A. Yes, sir.

Q. That would include the profits made by Western Electric on its sales to the A. T. & T. Company, would it not?

A. You mean the tax item here would be based on profits made on sales to the Associated Companies?

Q. Including sales made to the A. T. & T.?

A. Yes, sir.

Q. Do you know whether or not the A. T. & T. paid that tax on those items after receiving it from you, or wouldn't that have been eliminated in the consolidated return [fol. 5835] made by the A. T. & T. Company?

A. The amount of taxes we paid has been paid to the government. Of course, I haven't submitted those statements.

Q. I say you compute your income tax and turn it in to the A. T. & T. on profits, which include profits made on sales to the A. T. & T.?

A. Yes, sir.

Q. And those items were not, of course, purchased by the A. T. & T. Company for resale but for consumption?

A. Either went into their plant or into their maintenance.

Q. That is what I mean.

A. Yes, sir.

Q. And therefore, there would have been no way of A. T. & T. showing a subsequent profit on that sale in the manner in which Graybar would, the example you cited some time earlier yesterday?

A. Not without sale of the property to somebody else.

Q. So that in that particular instance, that would be interdepartmental profit which would be eliminated in the consolidated report filed by the A. T. & T., wouldn't it?

A. We haven't handled it that way, and the government has accepted this method as the correct method and the method that we should pay taxes on during this period.

Q. Well, I will take a concrete example. You sold something to the A. T. & T. Company for ten dollars?

A. Yes, sir.

Q. There was, we will say, a dollar profit?

A. Yes, sir.

Q. That dollar profit appeared in your net profit column and ultimately you include it in your income tax return and paid an income tax to A. T. & T. as 12½ cents, or whatever the rate was?

A. 12 cents.

Q. Now, then, do you mean that that same 12 cents was [fol. 5836] ultimately paid by the A. T. & T. to the government?

A. Exactly.

Q. And it wasn't treated as an interdepartmental transaction with no profit?

A. No, sir.

Q. Now, to go to this patent business again, how have you distributed the costs of patent development in these exhibits?

A. That has been distributed in proportion to the manufacturing cost of sales between Bell and non-Bell business.

Q. And the price of that patented article carries with it the right to use the article in the case of an independent non-Bell buyer, doesn't it?

A. Yes, sir.

Q. Whereas, the Associated Bell Company buyer pays for the cost of that use of that patented article by way of his annual payments to the A. T. & T., does he not?

A. Well, I can't testify at all on what the A. T. & T.

license is with the Associated Companies. All I can testify is as to the Western Electric Company, Mr. Herbert. That is getting out of my field.

Q. Your price to an Associated telephone buyer of an article is computed so as to cover the cost of the patent development in regard to it, isn't it?

A. Yes, sir.

Mr. Thompson: Pardon me, Mr. Herbert. Of course, you limit that to the cost of the patent development incurred by the Western Electric?

Mr. Herbert: Precisely.

By Commissioner Geiger:

Q. Mr. Gregory, taking your Exhibit Number 5, I have endeavored to ascertain the cost of sales by deducting from the sales the net profits. I believe that was what you indicated should be done?

A. Yes, sir.

Q. That is comparable to the sales and total cost of [fol. 5837] sales on your Exhibit Number 1?

A. Yes, sir.

Q. I haven't made any close analysis of it, but the thing that does appear rather strikingly is that the cost of sales until 1925 ran up to a pretty substantial figure, in 1925, it is 71,770,000, and then in 1926, it drops to fourteen million and subsequent years to fourteen million, thirteen million, seventeen million, and then it runs thirty-two million in 1929, back to twenty-one million in 1930?

A. Yes, sir.

Q. Now, do I understand that the material dropping off between 1925 and 1926 is due to the organization of the Graybar Company?

A. That is true for the falling off between '25 and '26, yes, sir, that is the large factor.

Q. Well, now, have we a report similar to this for the Graybar Company? We haven't, have we?

A. No, sir.

Q. You can not tell what sort of profits they made or how much the sales——

A. Not from any exhibits here, no, sir.

Q. Not from any exhibits. Well, was that device of forming the Graybar Company for the purpose of chang-

ing in any way the aspects of the picture made by these figures?

A. No, sir. It was really preparatory to the sale of the company; that is, we felt in 1925, that that business ought to be segregated and ought to be disposed of by the Western Electric Company at the proper time, and we ran it ourselves for three years, and then at the end of that period, we sold it to the employees.

Q. In 1928, your Bell business showed 250,000,000 and 1929, it showed 355 million. That was cost of sales?

A. Yes, sir.

Q. The non-Bell business in 1928 showed 17,531,000, and [fol. 5838] 1929, 32 million; now, they are both marked increases, but the amount of your increase in your non-Bell business is a much larger per cent than the increase in your Bell business?

A. Yes, sir.

Q. And in 1929, the Bell business, that is cost of sales, in 1929, it dropped from 355 million to 327 million, and the other dropped from 32 million to 21 million.

A. Yes, sir.

Q. A very larger drop in proportion. Now, was that due to the fact that there was a special activity in the non-Bell businesses at that time?

A. That is due practically entirely, Your Honor, to the fluctuations in the business of the sound pictures products company, that is, of our manufactures which were sold to the Electric Research Products Company.

That is, that shows how the sound picture business, it is an index of how the sound picture business has fluctuated in those three years.

Q. Was the sound picture business carried on by the Graybar or by the Western Electric?

A. It was carried on by the Electrical Research Products, which is a subsidiary of the Western Electric.

Q. Are those reflected in these figures?

A. Yes, sir, the sales to the Electrical Research Products, but not the profits of the Electrical Research Products.

Q. Well now, just one question. Your sound picture equipment was in development, was it not, not fixed in its development like a telephone?

A. No, sir.

Q. It was something new that was being experimented with?

A. It grew out of the development in the telephone business and we got to the point where we found that this [fol. 5839] development which we had incurred in behalf of the telephone business had some outside possibilities. Then we began to develop it along that line of the outside possibilities, and the expense of developing the outside possibilities has been incurred and charged against either the Western Electric Company prior to the formation of the Electrical Research Products Company, which was included in non-Bell costs and came out of non-Bell earnings, and subsequent to the formation of the Products Company it has been a charge that has been borne by the Products Company itself.

Q. Well, it was a much more hazardous business than the regular Bell business?

A. Yes, sir.

Q. That may have accounted for these large fluctuations?

A. Yes, sir. At the present time, it has really reached the saturation point as far as equipment of motion picture theaters. The further development of the business must be outside of the theater business in all probability as far as profits are concerned. That is, it must be in the religious field or the educational field or the industrial field and there is quite a lot more of development, a lot more sales effort in order to get sufficient volume to make a profit.

Commissioner Geiger: I think that is sufficient.

By Mr. Laylin:

Q. May I ask a question right along that line? The preliminary development effort which ultimately, as you say, led to the development of sound pictures, was charged originally at least in this total cost of sales, was it not?

A. Yes, sir.

Q. Now, has there been any reflection of the profits made in the sound picture business by Electrical Research [fol. 5840] Products to offset that development cost which inured to the sound picture business?

A. Our position is this, that the development cost up to the time we saw our possibilities outside the telephone

field is a proper charge against all apparatus sold either to Bell or non-Bell customers of telephone apparatus. Subsequent to that time, the development expense, after the formation of the products Company, on sound picture business was borne by the Electrical Research Products Company and comes out of their profit, must be deducted by them before they can get their profits out of which dividends may be declared.

Q. But you do not feel then that the Bell customers are entitled to anything by reason of the ground work laid which permitted the development of sound pictures, but which was, in fact, directed to another end, namely, the further development of the telephone business?

A. I do not feel that it should be credited to the Bell business no more than I would think if there was a loss on the sound picture business it should be added to the cost of doing telephone business.

By Mr. Herbert:

Q. Now, Mr. Gregory, when Electrical Research Products was incorporated in '27, it paid back into Western Electric approximately eight million dollars more than it was incorporated for within the year, didn't it?

A. Yes, sir.

Q. All of which appears as non-operating profit; I mean it doesn't appear anywhere in these exhibits?

A. That is right.

Q. Now, after that, it still had a value I believe you testified of upwards of two million dollars?

A. That is right.

Q. Now, Electrical Research Products was incorporated [fol. 5841] to distribute sound tone picture machines, wasn't it, largely?

A. Yes, and also to take over the non-Bell assets of the Western Electric Company which had been accumulated over the life of the business.

Q. What non-Bell assets do you refer to?

A. I refer to the assets——

Q. Will you furnish us a detailed statement of what those non-Bell assets are?

A. Yes, sir.

By Commissioner Geiger:

Q. Well, right at that point, didn't you testify there was 42 million dollars in government bonds?

A. I said there were thirty million in government bonds.

Q. Why did those get over into this other company What was the idea?

A. The basis of this credit or this formation of these assets that were turned over to the Products Company was this, we had earnings of the non-Bell business from the beginning down to date, including the profit on the sale of the foreign business, of something considerably in excess of 40 millions of dollars. Now, we had these particular securities, government securities, and we had certain companies like the Northern Electric and Graybar which had nothing to do with the telephone business and we were attempting to get into another corporation all those assets in the business which didn't have anything to do with the telephone business, so we assigned these securities, we assigned this Graybar stock, and we sold this Graybar stock and the Northern Electric stock to the Electrical Research Products in 1927.

Q. Well, ordinarily there would be no occasion for the Electrical Research Company to hold thirty million dol-[fol. 5842] lion dollars worth of government bonds?

A. No, no.

Q. Wouldn't have any use for them?

A. The reason was that that was a vehicle for putting in corporate form or under a different corporate name, some of the securities which we had which we considered had been built up out of non-Bell earnings over a long period of time.

Q. By the Western Electric?

A. By the Western Electric, yes.

Q. So if the Western Electric had used that thirty million dollars to reduce its indebtedness or take up its preferred stock or anything else, it would have shown a less capital value after that?

A. If it had retired capital stock, yes, sir.

Q. It was finally paid back again, wasn't it, as a dividend to the Western Electric?

A. Yes, at the end of 1927, this——

Q. Never mind, it was paid back?

A. It was paid back with accumulations in 1927, yes, sir.

Q. Then what became of it after it was paid back?

A. Then it was declared as a special dividend to the Western Electric.

Q. Which was the A. T. & T.?

A. And minority stockholders, a hundred thousand shares held by the minority stockholders.

By Mr. Herbert:

Q. Out of six million?

A. Out of six million.

Q. I am trying to get back to the point, Mr. Gregory, that so far as the business was concerned, Electrical Research Products had about two million dollars, didn't they?

A. Yes, sir, at the end of 1927.

Q. Most of that was in patent rights, was it?

A. No, that was the amount of the capital and surplus [fol. 5843] at that particular time.

Q. What did they have to sell? They didn't own any appreciable amount of real estate, did they?

A. No, very little.

Q. They weren't a manufacturing company in particular?

A. No.

Q. What they really had to sell was the right or rather was the use of this movietone equipment?

A. Well, they had the physical equipment, they had the physical sound picture equipment to sell and that was in their stock.

Q. In merchandise?

A. Yes.

Q. And where would they get that?

A. They bought it from us.

Q. And was transferred in their name at a certain price, wasn't it?

A. It was sold to them at a price.

Q. Did you manufacture it for them after they were created as a corporation?

A. Oh yes.

Q. They didn't receive any equipment when they were initially created?

A. I think not. If there was any, it was a very small amount.

Q. The only company which has ever manufactured the equipment which Electrical Research Products has sold all its life is the Western Electric Company, isn't it?

A. They buy some outside.

Q. I meant substantially?

A. Yes, sir.

By Commissioner Geiger:

Q. When the Graybar Company took over these government bonds——

A. The Products Company, you mean?

Mr. Herbert: It is Electrical Research Products, Your Honor.

[fol. 5844] Q. Took over the stock of the Graybar Company and the thirty million dollars of government bonds, what did they pay for them?

A. Paid the book cost to the Western Electric Company.

Q. What did they pay for the stock of that company?

A. They paid for it in this way, there was a million dollars of stock that we took and the other was in notes payable, which were liquidated at the end of the year.

Q. Notes payable was thirty-nine or forty million dollars?

A. About forty millions of dollars.

Q. Well, now, how was that note paid?

A. No, I beg your pardon, I think I made an error there. What they did was, they issued stock of a million dollars and then there was a capital surplus of forty millions of dollars, making a total of forty-one millions of dollars, and the Western Electric Company carried that capital and surplus on their books for forty-one millions of dollars.

By Mr. Herbert:

Q. The Western Electric Company carried them?

A. Valued it at forty-one millions of dollars.

Mr. Thompson: Valued its stock interest?

The Witness: Valued its stock interest in the products company at forty-one millions of dollars.

Q. Well, after that transaction, you still say that the Electrical Research Products had substantially nothing but the franchise, you might say, of selling this sound tone equipment?

A. That is their principal business.

Q. I mean that is their real asset, isn't it?

A. Their real asset, the principal asset is the amount of equipment that they may have on hand that they bought [fol. 5845] from the Western Electric Company.

Q. You don't mean to say that that is where they have really made their profit?

A. Yes, out of the equipment and out of royalties that they receive under contracts.

Q. Now, their business is to sell sound tone equipment to some theater, isn't it?

A. To producers and in general most of the sales are made to the large producers like Paramount, Warners and so forth.

Q. And they really don't sell it, they lease it?

A. That is right.

Q. But they got in the first three years of their lease the cost of the whole machine, don't they, as a rule?

A. That is correct

Q. And the remaining twelve years of the lease is supposed to be a rental computed on the cost of service?

A. They pay for cost of service.

Q. And when it is serviced, it is serviced by Western Electric who is paid by Electrical Research Products?

A. No, it is serviced by the Products Company, by their own organization.

Q. And never by Western Electric?

A. No, sir.

Q. But what I say is all Electrical Research Products has had in assets has been the exclusive right to market these machines?

A. That is what they were formed for, to develop the sound picture business.

Q. And the bulk of that development occurred prior to the formation of Electrical Research Products?

A. The fundamental development. Of course, there has been a development that started in the development of the telephone.

[fol. 5846] Q. It has been a by-product of the development and research, the expenses of which have been paid largely

by the Associated Bell Companies in your allocation of cost of sales over the years prior to 1927, isn't that a fact?

A. It has been paid by our customers, the Bell and non-Bell, in proportion to their use of the material.

Q. Bell and non-Bell?

A. Yes, sir.

Q. And you have stated that your development costs have been allocated on a percentage basis, based on manufacturing costs, and you have based your manufacturing costs, if you made a thousand items of one thing and sold 900 of them to Bell customers, the manufacturing cost went 90 per cent to Bell and 10 per cent to non-Bell, didn't it?

A. That is correct.

Q. So that when you allocate in the total cost of sales the development and research expenses of a year, you allocated it on the volume of manufacturing cost for the same year, so that by that token won't you say that the Associated Bell Telephone Companies have been paying the bulk of the expense, indirectly, of the development and research through those years?

A. It has been included in the cost of the equipment which we have sold at a price to the telephone Company.

Q. I don't mean to argue with you, Mr. Gregory, but there was no capitalization in the set-up of Electrical Research Products of this patent development, was there?

A. No, sir.

Q. So that the real source of Electrical Research Products revenue has been the exclusive right to market this product, this movietone product equipment which is manufactured mainly by Western Electric?

A. That is correct.

[fol. 5847] By Commissioner Geiger:

Q. Well, didn't they have stock in Graybar?

A. Yes, that is true, but they have since disposed of that.

Q. Yes, I know, but during the years 1925 to 1927, when they made that profit, they were also making a profit from the dividend on the stock in Graybar?

A. 1927 is the first year of the operation of this company.

Q. 1927 to 1929?

A. They had the dividend from the Graybar Company during the period it was owned by the Products Company.

By Mr. Herbert:

Q. I would like to clear up another point, Mr. Gregory. The rentals that we spoke of that they got so that the equipment is virtually paid for in three years but there is a continuing rental for the remaining twelve, I am using a typical case, is that separate and apart from the royalties you referred to a while ago?

A. Yes, sir.

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[fol. 5848] Commissioner Geiger: Well, I don't think that they admit that the cost of the development of the sound pictures has been charged to the telephone consumer. They denied that. Did you make any admission of that kind?

The Witness: No, sir. I said the development of the telephone was charged into the operating of the Western Electric Company, divided between non-Bell and Bell according to the usage of the equipment. But when we found the point that some other use, non-telephone use was in sight, then the development from that point on was charged, after the formation of the products company against the products company on orders from the products themselves.

By Commissioner Geiger:

Q. Now, let me get a view of that, if I may. Are you admitting now that in the development of things essentially connected with telephone, you expended a large sum of money to develop a sound picture and that when it was developed to a point that you found there was an outside use, you then transferred it to this other company with all the burden on the Bell Telephone Company or the Western Electric of developing it up to that point?

A. I didn't make myself clear, Your Honor.

Q. You won't agree that you have stated as I have stated to you?

A. No, I didn't say that.

[fol. 5849] By Mr. Thompson:

Q. May I ask a question at this point? The development, Mr. Gregory, out of which finally grew this sound picture equipment, was a telephone development, was it not?

A. Yes, sir.

Q. And it was of substantial value in the telephone business, is that right?

Commissioner Geiger: What value was it in the telephone business?

Q. What was it, Mr. Gregory?

A. Well, it had telephone uses, but I am not familiar enough with the technical part of it to describe it.

Q. Did the Western Electric start out in the making of this development, or whoever made it, with the idea of developing something for a telephone use, or for a non-telephone use?

A. For a telephone use,

Q. And was the expense of the development so far as it was applicable to the telephone business charged to the appropriate account and included in the cost of sales?

A. Yes, sir.

Commissioner Geiger: Of the telephone?

Q. Of the telephone. Now, when you got to the point where it seemed likely that some non-telephone use might be made out of it by its further development, then was the entire cost of that further development from that moment on charged against your non-Bell business?

A. That is correct.

By Commissioner Geiger:

Q. Let me get that straight. You did charge against the Bell operation or the Western Electric operation, the expense of developing the sound picture?

A. No.

Q. Wait a minute. So long as you thought it was going [fol. 5850] to be used for telephone exclusively, but when you found that it had a non-telephone use, then you removed it, together with all its costs, over into a separate company as a non-Bell development?

A. I think I can clear that up by this statement, Your Honor, that the development up to the time that there was any thought at all of the sound picture in the development was charged against the Western Electric Company and divided according to the usage of the equipment. As soon as the idea came up that there could be developments in sound picture business, just from that moment when the sound picture idea arose then the development further on was charged against non-Bell business.

Q. Up to that point, it still remains charged to the Bell business?

A. Charged to the Western Electric Company and apportioned between the two.

Q. Now, here is the point, as I understand, these gentlemen are contending for, that you used the money of the Western Electric to develop this thing that you thought could be used in connection with telephonic business up to a point where you found it had a broader and non-telephone use, and from that point on, you took the burden outside of the Western Electric of developing it?

A. Yes.

Q. But you had spent up to that point a large sum of money in developing it for what was supposed to be telephonic business, but which is not now used?

Mr. Thompson: Oh, yes, it is, Your Honor.

Commissioner Geiger: Is that correct?

Mr. Thompson: Yes, it is a vacuum tube. That is the essential underlying idea of this sound business.

[fol. 5851] By Commissioner Geiger:

Q. Let me put the question bluntly and just as definitely as I can. First, is there any part of this sound picture that is now being used in the telephone business?

A. Well, they are using the equipment to some extent in a minor way, that is, they purchased some equipment and are using it from an industrial standpoint, but from a sound picture standpoint, other than that, as any other industry might use it, the telephone company are not using it.

Q. They are not using it as a revenue producer?

A. No, sir.

Q. Now, you have got the entire development of the sound picture outside the range of anything that will produce a revenue for the telephone Company?

A. Yes, sir.

Q. Now, in taking it outside of that, where did you charge or place the costs of developing it up to the point that it left you as a telephone operation? Do you get my point?

A. I think I did. Of course, this whole thing started as a development for the telephone business itself, a fundamental development.

Q. As far as that was concerned, it was a failure?

A. Oh, no, it has its uses in the telephone business.

Q. What is it used for?

A. I can't tell you.

Q. It isn't used for the ordinary operation?

A. Not for sound pictures, but there are other uses of that equipment which is used in sound pictures in the telephone business. Just where, I am not an engineer enough to describe. But as soon as the point came, as soon as it was clear that there was a use of this idea, as possibilities of use in connection with motion picture films, just from that point on, the development was charged against non-Bell [fol. 5852] business and not one cent was charged to Bell business.

Q. Now, let me follow that. Now, you have produced a machine, a part of which, the early development of which you thought would be applied to telephone use, but in its development, you found that it was a sound picture machine which you are now operating in a subsidiary company which does not do any business for the telephone business, but you are producing a revenue out of that. Now, what these men want to know is how much of that revenue that you are producing out of that goes back to the Western Electric who put up the first money to develop it?

A. Maybe I can clear it up by this statement.

Commissioner Geiger: Is that what you want?

Mr. Herbert: Absolutely.

The Witness: Can I clear it up by this statement, Your Honor?

Commissioner Geiger: Yes.

The Witness: I will say this, that there is no expense charged to the Bell business or to the Western Electric Company which is allocated between Bell and non-Bell according to usage, in connection with the development of the telephone, fundamental development and the later development of the sound picture equipment, which wouldn't have been charged there if there had been no further development in the sound picture business or in the motion picture business.

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[fol. 5853] Mr. Herbert: Mr. Thompson, maybe we can settle this argument if you can state one subsidiary of the Western Electric Company that has been formed that hasn't paid a profit.

Mr. Thompson: Now, of course, that has no more relevancy to the decision of the legal question than it would if I tossed my hat out the window.

Mr. Herbert: Well, it has the relevancy that the subsidiary isn't organised until the product has been developed up to the point of production.

Mr. Thompson: Is that true?

The Witness: No, it is not true. The Products Company in 1927 lost about a million dollars on the sound picture business, and this question really goes, shall the telephone companies and the rate payers in Ohio stand a part of that loss in 1927 at a time when the development was not known to be a success, are they willing to go in and take that risk in this business along with us?

By Mr. Herbert:

Q. Just a minute. You stated now that the Electrical Research Products lost a million dollars in 1927?

A. On the sound picture business.

Q. Which was their only business in 1927?

A. Oh, no, they had these other assets.

Q. Other assets, but they weren't producing anything?

A. They had thirty million dollars in government bonds [fol. 5854] which produced over a million dollars of income.

Q. With no effort on their part?

A. That is true.

By Commissioner Geiger:

Q. Let me ask you this, did they lose any portion of that on developing the vacuum tube or did they get the vacuum tube as a completed instrumentality which they might use in the moving sound picture?

A. Quite a large part of that loss was due to the development expense that was billed them by the Laboratories in that year.

Q. On the vacuum tube?

A. The further development of the vacuum tube into the motion picture business.

By Mr. Herbert:

Q. Maybe we can settle it this way. Do you have any idea how many patents are involved in the production of this?

A. Not the slightest.

Q. Will you furnish us with a list of the patents that are used in the production of the sound movie machines?

Mr. Thompson: I object to that question on the same ground as the other.

Q. (Continuing.) Showing the date the patent was taken out?

Mr. Thompson: The same objection.

Commissioner Geiger: Sustained.

Mr. Herbert: The objection is sustained? The Commission doesn't want to know what products that go into this sound tone machine were patented by the Western Electric prior to the incorporation of the Electrical Research Products Company; Judge?

Commissioner Geiger: Any money they expended which was not used in telephone developments are all right. They can't use telephone money to develop sound pictures.

[fol. 5855] Mr. Herbert: All I seek is a concrete set-up of what processes or what products were patented that go into the production of this machine which Electrical Research Products distribute, how many of those patents were taken out prior to the formation of Electrical Research Products, and how many subsequently. That will settle this whole dispute that we are going into here of whether the users of the Ohio Bell Telephone Company have contributed to the development of the Electrical Research Products Movietone machine.

Commissioner Geiger: All right, Mr. Herbert. Objection is sustained.

Mr. Herbert: The objection is sustained? Note an exception.

Commissioner Geiger: Exceptions are noted.

By Commissioner Geiger:

Q. Let me ask you one question, does the Western Electric get any sort of income from the moving picture development as rental of that vacuum tube?

A. No, sir. The Products Company gets that income.

Q. The Products?

A. Yes, sir.

Q. They are a subsidiary of the Western Electric?

A. Yes, sir.

Q. And the Western Electric gets it by owning the stock of the Products Company?

A. That is correct.

Q. Well, is it or is it not a large sum of money, you don't need to say whether it is——

A. Well, in 1927, we lost money on that business, as I just testified. 1928, we made good profits and in 1929, we made profits. 1930, the business has fallen off, and this year it has fallen off still further.

By Mr. Herbert:

Q. May we infer from that over the last four years, it [fol. 5836] has been very little profit?

A. Oh, no, no, it has been a distinct profit.

Q. It has been a tremendously profitable enterprise, hasn't it, in its short life?

A. What do you mean by tremendous?

Q. What dividends has it paid in relation to its capital?

A. I might say this, that it has earned something under 20 per cent on the investment, I should say, on the average in this four year period.

Q. Are you including that period that it had an investment of 41 million, or after that?

A. I am including the time subsequent to that 41 million.

Q. You mean 20 per cent annually?

A. An average, I should say. That is roughly, rough estimate.

Q. None of the profits made by Electrical Research appear in these exhibits inasmuch as they go into the Western Electric by way of non-operative income?

A. That is correct.

Q. Now, coming to the Telatype Company, Mr. Gregory, the Telatype machine is made by the Western Electric, is it not?

A. No, sir.

Q. It is not?

A. No, sir.

Q. Was it at any time?

A. A long time ago, 15 years ago, Western Electric Company did have a machine similar to, that is, a predecessor of the present Telatype. I don't know how near it is. I think it was quite different from the present Telatype.

Q. It was made by Western Electric?

A. Yes, sir.

Q. Under any patents that Western Electric owned?

A. Yes, sir.

Q. And sold to consumers by Western Electric?

A. Yes, sir.

[fol. 5857] Q. When was the Telatype Company first incorporated?

A. I am sure I don't know.

Q. Well, when did Western Electric cease to manufacture the Telatype machine, as you refer to it, back in 1915?

A. Well, I would say that we ceased to manufacture that machine at least ten years ago, maybe longer.

Q. Before 1920 or '21?

A. Yes. That would be my guess.

Q. Just approximately?

A. Yes.

Q. You don't know when the Telatype Corporation which was purchased by the Western Electric was originally incorporated?

A. No, I do not. I think it is a recent incorporation, but it was a successor of other companies.

Q. None of them in any way connected with the original manufacture of the machine which Western Electric at one time made?

A. No, sir.

Q. Do you know whether the patents which Western Electric had on its Telatype machine that it made along in 1916 to 1920, whether it just let those lapse? What I am trying to get at——

A. I think I can answer that by saying that that business while it was being developed by the Western Electric Company in those earlier years, this is my recollection, was not a profitable business for the Western Electric Company, a particularly profitable business.

By Commissioner Geiger:

Q. Can't we get down to date? Go right to the date. Never mind about 1915. Is a subsidiary company of the Western Electric manufacturing the Telatype now?

A. Yes, sir.

Q. Do you own its stock?

A. We own its stock.

Commissioner Geiger: All right, go ahead from that.

[fol. 5858] By Mr. Herbert:

Q. Do you know whether there is any basic difference between the Teletype machines made now and the one made in 1915?

A. I think there are very great differences, but I am not in position to testify.

Q. But the basic idea that Western Electric Company made up until somewhere along 1920, basic machine——

A. I presume so, but there may be other basic principles developed since then.

Q. And not knowing the date of the Teletype incorporation, when was it purchased by Western Electric?

A. October 1st, 1930.

By Commissioner Geiger:

Q. What do you mean by that, when was it purchased by Western Electric?

A. Yes, sir.

Q. Did they purchase the company or purchase its stock?

A. Purchased the stock.

Q. Purchased the stock?

A. Yes, sir.

By Mr. Herbert:

Q. And from whom did you purchase its stock?

A. From the American Telephone & Telegraph Company.

Q. How long had the American Telephone & Telegraph Company owned it, if you know?

A. It owned it—it was an exchange made at once; that is, the American Telephone & Telegraph Company bought the Teletype Corporation on October 1st, 1930, by exchange of stock, 150,000 shares of A. T. & T. stock for 150,000 shares of Teletype stock, and the Western Electric on that same day bought the stock from the American Telephone & Telegraph Company. The American Telephone & Telegraph Company was the medium of purchase by the Western Electric Company of the Teletype corporation.

Q. Would you mind telling us why that procedure was used?

[fol. 5859] A. I think it was in connection with a question of income taxes to the holders of the stock of the Teletype corporation.

Q. By the holders of the stock of the Teletype Corporation, you mean Western Electric or A. T. & T.?

A. No, I mean holders of the Teletype Corporation prior to October 1st, 1930.

By Commissioner Geiger:

Q. From whom did the American Telephone & Telegraph Company buy it?

A. They bought it from the stockholders of the Teletype Corporation.

Q. Who were the stockholders of the Teletype Corporation, the American Telephone & Telegraph Company?

A. No, no, the stockholders of the Teletype Corporation, the main stockholders were a man by the name of Morton and a man by the name of Krumm, and a man by the name of Clinesmith.

Q. Had they or had they not up to that time any connection with the American Telephone & Telegraph Company or any of its subsidiaries?

A. No, sir.

By Mr. Herbert:

Q. You mean it was done because of the influence, the income tax would have to be paid by the stockholders of Teletype Corporation prior to October 1st?

A. Yes, that is, Mr. Morton and Mr. Krumm and Mr. Clinesmith, by an exchange of stock, I mean having A. T. & T. Stock instead of Teletype stock, did not from an income tax standpoint realize any profit, and it is not until they sell the A. T. & T. stock do they realize any profit from the income tax standpoint.

Commissioner Geiger: Realize a loss if they sell it now.

The Witness: Loss as compared with October, 1930, yes.

Q. Does the Teletype Company manufacture all this equipment for those machines?

A. I will have to check about that. They buy some parts.

[fol. 5860] Q. The Western Electric Company doesn't manufacture any of it?

A. No.

Q. That thirty million dollar price was computed on what basis?

A. On an earning basis.

Q. And nothing else, that is, past history of the earnings of the company?

A. Past history of the earnings of the company, and of course, what we thought of the prospects of that development.

Q. As to future earnings?

A. As to future earnings.

Q. And the past history of earnings show what, about twelve or fifteen per cent.?

Mr. Thompson: I think I am going to object to any further testimony along the Teletype line. I can't see what it has to do with this picture, its purchase by Western Electric.

Commissioner Geiger: The only way I can see, Mr. Herbert, if you can show that after its purchase by the exchange of these stocks, that the Western Electric has put telephone money into this further development. Now, they went out into the open market and bought something by an exchange of stock of the Western Electric. They may or may make any money. If they make any money, it goes to them and it goes finally to the American Telephone & Telegraph Company as holders of that stock. How does it affect the telephone users? Or if you can show that they are charging as part of their expenses, moneys that it really used for the purpose of continuing this Teletype Corporation——

Mr. Herbert: I will go into that at a later time.

Commissioner Geiger: Objection sustained and exceptions noted.

[fol. 5861] By Mr. Herbert:

Q. Now then, when you built up your manufacturing costs for incorporation into the column "Total cost of sales," you took unit costs for various items, did you not?

A. No, there are no unit costs.

Q. There are no unit costs?

A. No, sir. This is the over-all cost.

Q. The Western Electric Company does not maintain unit costs?

A. We have what we call figured costs, but they are not actual, not exactly the actual costs. They are the costs that are made up as the result of the manufacturing layout of what a thing has cost, that is, it specifies what operations ought to be performed in order to turn out a

particular piece of apparatus. Now, we know what the piece work rate is, we know what the material is for that lay-out, and what the proper overhead is, and we make up the figured costs on that basis.

Q. Mr. Gregory, you have records kept up constantly, you make six months' studies about every three years, don't you?

A. Of these figured costs, yes.

Q. To determine new figured costs?

A. That is right.

Q. And then you use those as a basis of estimation on future operation?

A. That is right.

Q. And then you adjust them, I believe?

A. Yes, sir.

Q. From your experienced costs, afterwards?

A. Yes, sir. But when you are talking about the unit costs, they are the figured costs.

Q. What do you mean by the phrase "Standard costs"?

A. That is the same thing as figured costs. I am using the term "Figured costs" because I think that is easier to [fol. 5862] understand than "Standard Costs."

Q. And a figured cost refers to what?

A. Figured cost is this cost that is made up from these manufacturing layouts.

Q. But a cost of what?

A. Cost of the article that is to be used.

Q. Then you have a figured cost of each article for each year?

A. Yes, sir, we have figured costs of all the articles that we manufacture.

Q. And that is total manufacturing cost, isn't it?

A. Yes, sir.

Q. And that manufacturing cost includes——

A. I want to modify that. That is total manufacturing cost as modified by a deficit or surplus which may occur showing the deviation from the use of these figured costs and the actual cost of expenditure of productive labor and material and overhead, during the period of the year.

By Commissioner Geiger:

Q. Let me ask just right there, your experience, there are two classes of cost, one is actual cost and one is figured cost, is that correct?

A. Yes, sir, and over a period of years, Your Honor, they are the same; that is, the figured costs are simply a cost that we use for internal purposes in our accounting, but when you get down to the end of the year, why, then they are adjusted to the actual expenditures, the total expenditures for productive labor, materials and overhead that is spent.

Q. So that the figured costs may not be accurate at the beginning of the year, but they are made accurate after you have realized what they actually are?

A. We don't change the figured costs, but as far as our profits are concerned, we change the bulk of all those fig- [fol. 5863] ured costs to the actual costs for expenditures for productive labor and material and overheads.

Q. In the overheads there, do you have any overheads for going concern value?

A. No, sir.

Q. Reproductive value?

A. No, sir.

By Mr. Herbert:

Q. Those figured costs are all-inclusive of all manufacturing costs, aren't they?

A. Yes, sir.

Q. And the manufacturing costs include the direct labor cost?

A. That is right.

Q. And the direct labor cost includes actual labor and a certain computed shop overhead and a labor increment representing lost labor, people that are sick or something like that?

A. You are talking now about direct labor costs?

Q. Yes.

A. It includes the actual labor that is spent by the workmen on the job plus an increment, we call it, which includes the amount that is spent, paid to those fellows while they are away, sick, vacations and so forth.

Q. And a shop element?

A. Yes, sir.

Q. And then added to that is a manufacturing department overhead, isn't there?

A. You have got the shop overhead in there, Mr. Herbert.

Q. And then there is an advisory overhead on top of

that, isn't there, which is not included in your direct labor cost?

A. Oh, yes, but the items are these four:

Direct labor; labor increment I have just described; material; and overhead, shop overhead. That makes up your total manufacturing cost.

Q. Well, then, is there any other overhead to compute on top of that?

A. Not for the manufacturing costs.

[fol. 5864] Q. Not for manufacturing cost?

A. No, sir.

Q. Then after you get beyond manufacturing cost, there is a sales cost, isn't there?

A. Yes, sir.

Q. And there is a profit to be determined?

A. Yes, sir. There is also a distribution cost, Federal taxes, installation cost.

Q. I am speaking of items apart from installation cost?

A. Yes, sir.

Q. That only applies in case of central office, doesn't it, installation cost?

A That is right.

Q. Any other items of equipment, the installation is made by the purchaser, isn't it, substantially?

A. Where they are installed by the purchaser, no installation costs of the Western Electric Company would be included in there.

Q. Yes. Now, what I want to get, Mr. Gregory, is the detail of those costs as they were used in the preparation of this column, "Total cost of Sales," broken down into that, and then show the installation costs separate, the cost of sales separate?

A. You say "detail," just what do you mean?

Q. Mr. Gregory, isn't it a fact that you used standard costs weighted at certain percentages as you found you experienced a variation from those?

A. Well, in making up the——

Q. I don't want to get into a lengthy discussion such as you have been in on this phase of the testimony, but I want the fact clearly determined whether or not you used actual experience costs or whether you used standard costs varied by percentages as you found from time to time they should vary?

A. That is true, we have used figured costs and then varied them by percentages. But we can do it in that way, [fol. 5865] Mr. Herbert, or we can take another way and build it up from productive labor and material and overhead all the way through, which would not bring in the question of figured costs at all in the picture, but they both come to the same answer. But the way that we have done is by using the figured cost, and I can give one item for manufacturing cost and these other items for development and research, merchandising expense, installation expense, with very little effort. The other way of doing it would mean perhaps three to six months to complete.

Mr. Burr: Covering how many items?

The Witness: Covering fifteen years and covering all the business.

Mr. Burr: Getting into how many thousands of items?

The Witness: The method we have used would be simply taking the information from reports that we get and compiling them in a little different way. The other method to build it up from productive labor and material and overhead, and the exact amount which goes into these costs would be a study which we have not got ready and which would take considerable detailed work, because it means looking into every situation in all the thirty-eight distributing points or manufacturing points of the country.

By Mr. Herbert:

Q. But all that detail is available for our engineers?

A. That could be done, but it would take a long, long time to do it.

Q. Well, it was done in order to prepare these exhibits, wasn't it?

A. We did it the other way, by using the figured costs, and adjusting it for the——

Q. That is what I say. I am perfectly willing to adopt [fol. 5866] your figured costs and your percentages——

A. All right, we can do that.

Q. I want to see what they are, though. That is why I want to request a list of the manufacturing costs of the Western Electric on the items of equipment sold by the Western Electric to the Ohio Bell Telephone Company in the year 1925.

Mr. Thompson: I don't think that is——

Mr. Herbert That is in addition to this other stuff. I don't want to—Mr. Gregory wants to catch a train and I am through at this time with him.

Mr. Thompson: I want to understand this request as definitely as I can. Probably I haven't it very clearly in mind. Will you state it for me again, Mr. Herbert, these last two?

(Question read.)

Mr. Thompson: I am sure, Mr. Gregory, that is not available, is it?

The Witness: No, that is not available.

Mr. Herbert: But, Mr. Thompson, that is exactly what the witness testified you do keep.

Mr. Thompson: No, but what you said was to have these costs on each item of equipment.

By Mr. Herbert:

Q. You keep a manufacturing cost on each item of equipment; isn't that correct?

A. We have these figured costs, which is not an actual cost.

Q. But your variation is negligible from year to year, isn't it? When you used figured costs in the preparation of this total cost account, you didn't vary over ten per cent., did you?

A. No.

Q. All I am asking is that you give us the standard cost [fol. 5867] for each type of item or for each item of equipment sold by the Western Electric to the Ohio Bell in 1925?

A. Do you know how many items that would be, Mr. Herbert?

Mr. Thompson: How many would it be, Mr. Gregory, and how long would it take to prepare it?

The Witness: Well, we manufacture something like a hundred thousand different kinds of things. Now, how much went to the Ohio Bell, we would have to pick out how many went to the Ohio Bell and what they were and just what went into each equipment, it would require a detailed engineering analysis of just what goes into every switchboard during 1925 and every piece of apparatus that went to the Ohio Bell.

Q. You mean that the switchboard apparatus was not sold to the Ohio Bell on a unit cost basis?

A. If you take switchboards as a whole, that is a different proposition.

Q. How were the switchboards sold to the Ohio Bell?

A. They are made up from a price list that is determined by our commercial department.

Q. But were they sold on a standard cost basis or were they sold on a total price basis?

A. They were sold on a price basis.

Q. Now, as a matter of fact, Ohio Bell, when they want a switchboard, send in their specifications to Western Electric, don't they?

A. Yes, sir.

Q. And Western Electric puts in that switchboard and bills them a total cost, including installation, don't they?

A. Yes, sir.

Q. Is it separated between installation and cost shipped to them?

A. Yes, sir.

[fol. 5868] Q. Well, how is that price computed by Western Electric, isn't it computed on a standard cost basis?

A. It is computed by this commercial department who makes studies what this particular type of switchboard would cost and then they figure what percentage of profit should be applied and get the price. If you want, Mr. Herbert, the details that go into every one of those switchboards, it is a terrific job, take a long, long time to get it.

Mr. Burr: Take a year to prepare all that stuff?

The Witness: It would be pretty near that. Of course, it would depend upon the number of people you put on it.

Q. Isn't that switchboard cost computed from the standard costs?

A. Yes. If you are willing to take summations from these standard costs which may——

Q. Will you furnish us all the data on one typical switchboard transaction in Ohio and furnish us the standard costs on all other items of equipment sold by the Western Electric to the Ohio Bell Telephone Company in that year?

Mr. Thompson: Just a minute, I am going to object to that request, for this reason. The question is what the Western Electric Company is making out of its business

done with these Bell Associated Companies. This record shows up to date the *the* Ohio Bell is a fair cross-section of the material furnished. I don't understand that this case involves any element of trying to find out by pricing out materials the exact cost or profit or amount of profit made on a particular installation or on the business done with the Ohio Bell Telephone Company.

Now, here is an inquiry, I think the Commission may see right at the start that if we engage in this even to the ex-
[fol. 5869] tent that Mr. Herbert now asks, it is weeks and weeks and weeks of labor, whereas, as I understand the decision of the Supreme Court, the question is the over-all picture. Now, I just don't see, I don't believe if we do engage in this sort of a thing that we can even get through.

(Question read.)

Commissioner Geiger: Can you furnish that without much waste of time?

The Witness: No, sir, it would mean a lot of work, Your Honor. We don't figure what our profits are, that is, cost and all the details on each job of that sort. And, as I understand it, we are not required under the decision of the Supreme Court, to show profits on Ohio Bell business, but simply to show the profits on the Bell business as a whole.

Mr. Herbert: Well, I will read the language of that decision to the Commission if they want it, where that is exactly what the Supreme Court said.

Mr. Thompson: I have never yet seen it.

Mr. Herbert: There is a distinct dispute as to what was meant by the Supreme Court.

Commissioner Geiger: You mean the Supreme Court can't express itself so that we can understand it?

Mr. Herbert: We can get the language and then the Commission can decide.

Mr. Thompson: There was one request immediately preceding this, Mr. Herbert, that I didn't get.

Commissioner Geiger: Wait until I get that question. Can you get what, the profits or the switchboard?

(Question read.)

[fol. 5870] The Witness: What we can do, Your Honor, is to give the profits on the Bell business as a whole and we can show how much profit was made on telephone apparatus as a whole for all Bell system companies, how much was

made on lead covered cable and how much was made in connection with furnishing supplies to the telephone, those three main divisions; those are the ones we used in the regular conduct of our business. But we have no computation whatsoever on the profits that are made on any individual telephone company. It would mean an extreme amount of extra work.

By Mr. Herbert:

Q. I don't want the Commission to be confused about this, Mr. Gregory. You do maintain a standard unit cost that is easily referable to on every single item of equipment, don't you, as, for example, you have right in your records in New York now a unit cost for a jack which is maintained and kept up constantly and revised and corrected at three-year intervals?

A. Well, now, there are any quantity of different kinds of jacks.

Q. But you have a cost for each one?

A. Yes, but you have got to find out which kind of these thousands of kinds that went into a particular switchboard that went into Ohio.

Q. I have asked you for the complete detail on one switchboard transaction and then the standard unit cost on all other items of manufactured equipment, that is, by that, manufactured by Western Electric?

A. Of course, even if you got that, you haven't got the whole story. There is a lot more to be gotten.

Mr. Herbert: That may be so, but I am asking for just that.

Mr. Thompson: But if we got that, where are we? If it [fol. 5871] is to be of any value at all, as I see it, then you are to take either the actual costs or these figured costs, and start on the question of trying to calculate in some way what money was made by the Western Electric out of the business done with the Ohio Bell. And now, that is not, as I understand it, at all in accordance with the decision of the Supreme Court.

Mr. Herbert: Are we to be precluded from that kind of a calculation by an inability to have a knowledge of the cost as computed by your company, Western Electric?

Mr. Thompson: I don't see why any obligation should rest upon us to do a large amount of work involving the

expenditure of considerable money and a long delay in the final decision of this case on something that, when you have it, is as we see it, wholly irrelevant.

Commissioner Geiger: Well, have you, Mr. Gregory, an account from which you can give us the amount of money and profit that your company has made in its dealings with the Ohio Bell Telephone Company over a period of years?

The Witness: No, sir.

Mr. Herbert: They would show that, Your Honor, only by applying the percentages which they have adopted to that Exhibit 7, I suppose.

The Witness: Yes, sir, and that, I think, Your Honor, is a perfectly fair and reasonable way of ascertaining the profits on the Ohio Bell business, by applying the average rate which we have earned on all Bell Company business, because we all know that most of the telephone companies buy about the same proportion of different kinds of equipment in the carrying on of their business; there might be [fol. 5872] some slight variation, but it would be of no importance.

By Commissioner Geiger:

Q. Well, you have already separated the profits in dealing with the non-Bell business from those in dealing with the Bell?

A. Yes, sir.

Q. What you want to do is to take the dealings on the Bell, which will run on an average throughout all Bell groups?

A. Yes, sir.

Q. Without segregating it to the Ohio Bell Telephone Company?

A. Yes, sir. I think that is fair and I think it is in accordance with the decision of the Supreme Court.

* * * * * * *

[fol. 5873] By Commissioner Geiger:

Q. Well, let me ask one or two questions there. Would you be able to say to us that the average cost that you have here for the sixteen years relating to all Bell Telephones would be a proper measure of the cost to the Ohio Bell Telephone?

A. As a whole, yes, sir.

Q. As a whole. Now, might this, or might not this be a situation, that if you might take one particular year in Ohio and try to find out what they have spent there, that one year might vary in its per cent from the sales to all Bell telephones, it might show a considerable variance from that; would that be so on up, that is, did your whole territory develop evenly every year?

A. Well, I wouldn't say that it has been developed evenly every year. Of course, I am not really familiar with just what the development has been. But there has been variations. But I think it is perfectly fair, that is, the amount in error that would be there would be very unimportant when you consider that the percentage of profit anyway that we make as a whole is so low and lower than what I think is a fair percentage to be made.

Q. Well, that is the thing that Mr. Herbert is challenging, you know, your per cent of profit is not correctly shown, and that is what he wants to show. Now, have you any [fol. 5874] other check you can suggest there that would verify it, have you worked out any other plan?

A. I have suggested this presentation of statements which we have had and which are our working papers which we use in the regular course of business, which were the supporting papers of these exhibits. Now, those, I can give to Mr. Herbert within the next month without undue effort. But if we go into these details, I can't see any end to it.

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[fol. 5875] Mr. Herbert: If Your Honor please, this Commission tentatively rejected the McBerty testimony.

Commissioner Geiger: Yes.

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[fol. 5876] And also CHARLES A. HEISS, recalled, continued his testimony as follows:

Cross-examined by Mr. Herbert:

Q. Mr. Heiss, I believe you testified that the American Company carries on two major activities, which are long lines and the license services, and a third activity of the holding company?

A. That is substantially what I testified to. I said the third activity was a secondary activity, intimately related to the license contract activity.

Q. You called it a secondary activity?

A. Secondary, yes, sir.

Q. In what sense?

A. Because it is not one of the important activities of the company, and further, also, that in my opinion it is an integral part of the license contract activity. It is one of the type of activities that you can say is an activity and separate from the license contract or is not separate.

Q. Now then, Mr. Heiss, may we have a statement showing the income account and investment by years, just gross figures, for the long lines department and for the holding department activities, comparable with the totals as they appear on your Exhibit 10 for the license——

Mr. Thompson: Pardon me just a moment. I want to get this. Comparable to what, Mr. Herbert?

Q. Comparable to the totals as they appear on Exhibit 10 as to the license contract department of the company.

A. I can't comply with that request fully. If you will look at my testimony, you will see that I stated we kept the [fol. 5877] accounts of the long lines department separate, separate and distinct set of accounts. Now, all other activities of the American Company, whether they pertain to license contract activities or involve holding company activities or any other activity, are combined into another set of accounts; so that I haven't standing out on our books an income account of our so-called holding company activities.

Q. Do you have an investment account for your license activities?

A. Not separate from our other investments.

Q. You couldn't separate them?

A. Except as I have done in this exhibit.

Q. Well, you have only done that in connection with instrument maintenance, haven't you?

A. I have done it in connection with instrument maintenance and I have also done it in connection with the funds which we hold available, and I have also done it in connection with the temporary investments which we hold as a result of advances to our licensee companies.

Q. Is there a depreciation in these costs on Exhibit 10?

A. You will find a depreciation charge insofar as instruments are concerned in the item "Instrument maintenance"

for the years during which we owned the instruments. You will find a deduction for depreciation in connection with the item "Cost net of carrying investment in physical property used in rendering license contract service."

Q. Well, then, you have a figure showing the investment in physical property used in rendering license contract services?

A. I can compute such a figure.

Q. Well, you had to compute it in order to determine your [fol. 5878] cost of carrying the investment, didn't you?

A. The item, "Cost net for carrying investment in physical property used in rendering license contract service" is the physical property used. The further investment involved in the carrying on of license contract service is included in the two succeeding items, "Cost net incurred in holding funds available during year to meet cash requirements, of licensee companies", and "Cost net of temporary financing". Now then, there is also in addition, certain additional investment that I haven't considered here from the point of view of conservatism, that I haven't considered here that I could have easily allocated to the license contract activity.

Q. You say that you could allocate to it?

A. That I could allocate, yes, and have not.

Q. In dollars?

A. In dollars.

Q. When you have done that then, you would have the total investment in separate accounts, wouldn't you?

A. I can make up for you a statement showing the investment of the American Company devoted to the rendition of license contract services, but it is a statement that I must prepare, it can't be read directly from any set of books.

Q. Would it take much time?

A. No, it wouldn't take a great deal of time.

Q. Could we have a statement showing the income and investment in those three departments for the same years, covered in your Exhibit 10?

Mr. Thompson: May I make a statement for the record there? The American Company has a department known as the long lines, the books of which are kept separately, and [fol. 5879] it is possible to get the investment and the income of the long lines by years for the period covered by

Exhibit 10, that is, 1923 to date. No figures of income or expenses of the long lines are included in Exhibit 10. I am perfectly willing on behalf of the company to furnish counsel with, let's say, one of the more recent statements of the long lines showing investment and income and expenses and if, after examining that statement, he feels that it has any relevancy to Exhibit 10, it will be open to him to make a request for the other years. I simply do that in the interest of time.

On the other request that Mr. Herbert has made on the theory that separate accounts in the American Company are maintained as to its holding company and license contract activities, that is not the fact, and all that Mr. Heiss could do would not be to furnish counsel with information from the books as to these two activities of the American Company, but to make an allocation and a judgment figure as between the two activities and that is, in essence, what has already been done here. But we have no books which will show that here is property definitely allocated to the license contract services and the holding company activities. So that the request as made is not possible of being complied with.

Mr. Herbert: Will you state to the extent it can be complied with as to holding company activities and license activities?

Mr. Thompson: And Mr. Heiss will correct me if I am wrong. As I understand it, it is possible for Mr. Heiss to take, to apportion as his judgment dictates, property which in his opinion is used in rendering license contract services [fol. 5880] which will consist of the telephone instruments during a certain period of years, certain real estate and certain cash and securities. That has got to be done by judgment. So that if your request goes to a separation appearing on the books of the American Company, it is not and never has been there.

The Witness: Let me amplify what you said. The long lines is entirely out of the picture. Now, you have left the major activity of the American Company, which is the rendition of license contract services, and you have this thing that might be called a holding company activity, but very definitely tied up with the rendition of the license contract services, through the channel of our financing the local companies. Now, I can set down in one column, take all of our investment, I can set down in one column that which in

my judgment should be allocated to the license contract activity and it would show something of this order: Our notes from our licensee companies, certain stocks that we own in connection with our 195 Broadway Corporation and our 205 Broadway Corporation in New York, which constitutes our office building, and the office furniture and fixtures that we use there. But when you come to the office furniture and fixtures, they are used in common for the license contract activities and this what you might term a so-called holding company activity, and you must arbitrarily separate your furniture and fixtures into two parts, on an estimate. And then you go on and take your telephone instruments, well, they are strictly a license contract investment. And then you come to cash and deposits and you have this question as to how much of your cash you are holding to finance the companies temporarily and how much [fol. 5881] you should hold or would hold under an entirely different kind of situation; that is, how much are you holding there for a pure holding company relation? I don't know. I have simply got to apply my judgment.

Mr. Thompson: Is that the sort of a statement that you want, Mr. Herbert?

The Witness: Then I might add one more item. Then I have the stocks and bonds or the stocks that we own of our Associate Companies. Well, in any such set-up, I would very likely set those over into the holding company column. But they have a very definite tie-in. And a few bonds that we have and a number of bank deposits; there they should go would have to depend wholly on my judgment.

Q. Let me ask you this, Mr. Heiss, have you got a figure showing the total cost of carrying the total investment in the American Company for any of these years?

A. Will you state that again?

Q. You have an item here "Cost net of carrying investment in physical property used in rendering license contract services". Tell us just how you arrived at that figure for each of those years, taking any one year for an example?

A. You want the detail of how I arrived at the item "Cost net of carrying investment in physical property used in rendering license contract services"?

Q. You had to first determine an investment?

A. Let me take you through the computation. I am taking now the year 1923; we have a total investment of $31,329,013.00 in instruments.

Q. That was all in instruments?

[fol. 5882] A. That was all in instruments, and that, I would say, was entirely license contract. We had an investment at that time of $11,295,095.00 in real estate in New York; that was our investment in our office building.

Q. Eleven million invested in office building?

A. The office building which houses the personnel which devotes its time to license contract activities and also the personnel which jointly, along with the handling of license contract activities, does work in connection with our so-called holding company function.

Q. Any long lines activities in that building?

A. Not in that building at all. The long lines are in a building across the street and they pay their own rental and have their own office space; we haven't anything to do with them in the general department. Now, I said that after I had studied months to determine about what part of the time of our personnel might be said to devote its time to holding company activities as against the time devoted to license contract activities, careful canvass with all of the departments of the company, I come to about this conclusion:

82 per cent of the time of our prsonnel may properly be assigned to license contract activity, or I don't say time, I mean expense incurred by our personnel, 82 per cent to license contract activity, 16 to joint inter-related license contract and holding company activity, and about two per cent which I could exclude entirely, because the activities had nothing whatsoever to do with the license contract function. Now then, I take my $11,295,095.00 in an office building and I break down that investment on that same basis and [fol. 5883] I put 82 per cent of it in the column "wholly licensed" or, as this is labeled here, "Direct", the direct license expense, and the sixteen goes into the joint column, column headed "indirect" and the other is excluded entirely, doesn't appear here at all. Now, I had one other item——

Q. Wait just a moment. May I ask you, to amplify that right here, Mr. Heiss, you say on that building then 98 appears in the two columns, 82 in the direct cost column and 16 in the indirect?

A. Yes, sir.

Q. So that two per cent of that item is all that is carried by the holding company activity?

A. No, sir, two per cent hasn't anything to do with the holding company functions or the license contract functions, it relates to activities, to non-Bell activities which we have excluded entirely.

Q. It has to relate to either long lines activities, license activities or holding company activities, doesn't it?

A. No, not necessarily. It may pertain to other activities.

Q. What other activities has the company?

A. Well, they have varied. I want to tell you this year, in this year, we have excluded the expense of a few men who are devoting their time to the consideration of licensing of a few of our patents for use outside of the telephone business. Now, to show you that we have endeavored to be conservative in this set-up, we have not included in this set-up, a dollar of non-telephone revenue, because we feel it doesn't belong here. Neither have we included in our costs, as far as it has been possible to exclude it, any expense which is tied up with the earning of the non-Bell revenue which we have excluded. Now, the two per cent of expense which I have excluded——

[fol. 5884] Q. Will you give us an example of what you term as non-telephone revenue?

A. Well, for instance, we had in that year two men or so who were engaged in the licensing of radio broadcasting stations which is for amusement or program purposes. Now, we have said that inasmuch as we didn't put the little revenue, a few thousand dollars of revenue which we got from those broadcasting stations, into the picture here, we haven't any business to put the expense in and we have excluded the expense.

Now, let me give you another example. In recent years, the last three or four years, we have carried on a so-called trade mark service jointly with the Associated Companies. We developed this trade-mark service, first, as a license contract activity, and got it on a basis where it was profitable to the licensee companies. Then it developed that certain dealers had national headquarters offices and instead of—well, let's take, for example, the International Harvester has its headquarters offices at Chicago. Now, in place of each of the licensee companies going to the branch offices of the International Harvester Company all over the United States and selling them trade mark service, the companies said, "A better contact is made if one member of the Bell

system makes the contact with the headquarters of the International Harvester and makes the arrangements for all the companies", so we have proceeded on that basis, and for that service, the American Company receives a certain commission from the trade-mark revenue for its service of selling. Similarly, if one of the licensee companies sells trade-mark service in which the American Company participates, the American Company pays a Commission to [fol. 5885] them. Now, we have had a few people working on that kind of work. We have excluded those expenses as having nothing to do with this cost set-up at all.

I want to say this, that we have endeavored to the very best of our knowledge, there may be fallacy of judgment and all, but to the very best of our knowledge, we have endeavored to give you here a conservative statement of costs throughout and we have leaned backward in making it conservative.

I can tell you one item here, give you one illustration in the matter of cost of money. We exclude in the year 1930 from our capital, from our funds actually held available for the licensee companies, 150 million dollars which we might have put in here and might have made the figure for that year show approximately the difference between receipts and expenditures of six million more, but we didn't do it because we felt we wanted this statement a conservative one.

Now, the situation there was briefly something of this type. At the beginning of 1930, we were absolutely out of funds. We had issued the year before a convertible bond issue which had brought in over two hundred millions of money and that was all used up by January, 1930. In January, 1930, it was incumbent upon us to get additional funds to finance the demands of the companies, which looked like 700 million dollars. We sold a bond issue and that was used up by March. We then had to do additional financing. We sold a stock issue and as a result, we had in our business something like, at the end of 1930, nearly 400 million of cash, not that our financing was in error at all, but it was based on the demands which the Associated Companies had made on us and we were endeavoring to meet those [fol. 5886] demands, and when the business depression came along, we were caught with the money and had to carry it at a low rate of interest, waiting until the Associated Com-

panies needed it. Now, we felt in a conservative approach to this problem that we should not put the entire amount of money that we were carrying in New York in as a cost in this statement. Now, that is digressing a little bit from the subject in hand, but I wanted to tell you the philosophy back of our preparation of this statement.

Q. Now, to get back to this eleven million dollar building, that houses all the personnel in the license contract service and the holding company service?

A. It does.

Q. And 98 per cent of that building is included in your investment on which you compute the cost of carrying investment in the license contract services, is it not?

A. No.

Q. How is it?

A. Well, I will change my answer on that. In my basic computation I do include 98 per cent, but in the deduction made——

Q. Oh, the million dollar deduction?

A. Yes, the million dollar deduction is supposed to adjust for any element of holding company activity that may have been included in the computation.

Q. That is purely your judgment figure, that million dollars?

A. That is all it can be. That judgment is based on 18 years of service for the company and a knowledge of the business.

Q. You start in by computing the investment in license contract at 98 per cent of your building, isn't that correct?

A. Yes, and I may supplement my other answer, it is not only my judgment, but it is the judgment of many of our [fol. 5887] officers, that this is a fair adjustment. But there is 98 per cent in the basic computation.

Q. Then to go on from there, what other items have you?

A. Now, the next item is office furniture. Now, we had a total investment in office furniture of $749,803.00, now, that is apportioned just exactly as the building was apportioned.

Q. 98 per cent?

A. 82 per cent.

Q. In the direct column?

A. In the column "Wholly licensed" or "Direct", and

16 in "Indirect" and two excluded entirely, and in the total column, you have the 98 per cent, or $749,000.00.

Q. Now, that represents all of the investment under that particular caption, and the total of it is $43,373,911.00, of which $41,407,397.00 is wholly, we consider it as wholly license, and $1,966,514.00 as joint.

We had on our books a depreciation reserve in that year against our instruments, against our real estate, and against our office furniture and fixtures, of $15,340,796.00. Now, I didn't have any appraisement of the property, I have no knowledge of the observable depreciation in this property at the time I made up this statement, and to be conservative, I have deducted the entire depreciation reserve from the investment I have given here, producing a net investment, and that is the significance of "Net", that is one phase of the net parenthetical insertion there, I have $28,033,115.00, which is broken down between wholly license and joint, $26,120,546.00 wholly license and $1,912,569.00 as joint, as investment which is in part used for license contract activities and in part for the holding company ac-
[fol. 5888] tivity.

Now, my cost of money over all that year was 6.87 and I have simply applied the 6.87 to these various items of investment.

And now, further than that, I have received certain incidental rent revenues in that year which, after I arrived at my net cost, I credited against this net cost, $598,197.00 of miscellaneous rent revenues received, bringing my figures back to those which you have on Exhibit 10.

Q. Are all these figures which you have been reading contained in the breakdown of this Exhibit 10?

A. They are computed figures.

Q. I mean you are reading them from a compilation of figures which you have in front of you?

A. Well, I naturally carry with me the detail going into it.

Q. Is that detail available to us at this time?

A. I have given you the entire detail in the record now, but I would be happy to furnish, I will be happy in any of these cost computations to furnish them to you.

Q. May we have furnished the detail as you have it before you?

Mr. Thompson: That is the detail going to make up Exhibit 10, is the request, as I understand, Exhibit 10?

Mr. Herbert: That is correct.

Mr. Thompson: Certainly.

The Witness: Exhibit 10 or this particular item?

Q. No, Exhibit 10?

A. The whole exhibit?

Q. Yes, sir. Well, do you have the detail all assembled there in one folder?

A. No, Mr. Herbert, I have various notations that I have [fol. 5889] made for my own use in explaining this, but it calls for a different type of detail. For instance, departmental costs would call for a different type of approach in the breakdown. I can break down departmental costs into probably 25 items, salaries, traveling, telephone service, telegraph service, all of that detail. Then my taxes, I would have to break those down as to the kinds of taxes.

Q. Isn't is a comparatively simple matter then to furnish us that investment, total investment figure which you have used for each of these years as a license activity investment?

A. I can do that, I can give you the exact number, the exact amount of dollars used in each year of the eight years and I can tell you how I can break it down.

Mr. Thompson: Pardon me, Mr. Herbert, because I want to be sure that we get them as we go along——

Mr. Herbert: I am going back to my original request which hasn't been ruled on yet.

Mr. Thompson: There hasn't been any objection to it. But as I understand now, in addition to the detail that makes this up or one of the things included in it, you want a break-down of the investments used by Mr. Heiss in arriving at the cost of services under the license contract for each of the years?

Mr. Herbert: You have agreed to furnish us the breakdown of the total Exhibit 10?

Mr. Thompson: Right.

Mr. Herbert: But I want, just for the sake of expedition, a summarized statement prepared by Mr. Heiss showing the total investment allocated to the license business.

[fol. 5890] Mr. Thompson: All right, we will do that.

Mr. Herbert: I want the total investment by years allocated to the long lines and the total investment allocated to the holding company, because I assume that by adding

up the three, we get the total investment of the American Telephone & Telegraph Company.

The Witness: Understand, there is no investment of the long lines in here, and I can't allocate anything to it. The long lines investment is a figure which appears somewhere on our books, but it isn't in here at all. And this is probably——

Q. Just let me interrupt, Mr. Heiss. You surely have the total investment of the long lines?

A. Oh, yes, yes, but it isn't in here.

Q. From year to year?

A. Yes.

Q. I didn't say that it was in here. I just want to have the figure to add to the total investment that you have allocated the license contract activity and to the total investment of your holding company activity?

A. Well, there is no reason why you can't get that. If you take all the investment I give you here and take our annual reports to the interstate Commerce Commission or to our stockholders, the difference can be only one thing, the long lines investment. But let me make this suggestion, you have asked for a complete breakdown here for eight years. Now, every year is just exactly like every other year so far as the principle of set-up is concerned, and the only difference will be minor variations in figures. I am wondering whether you want a complete detail of the eight years broken down or whether one year or two years would be satisfactory to you?

[fol. 5891] Mr. Herbert: Could we reserve that until later and advise you by letter or orally?

Mr. Thompson: Certainly.

Mr. Herbert: I mean I don't want to preclude myself, nor do I want to overburden you.

Mr. Thompson: That is perfectly fair, Mr. Herbert. Now, may I ask whether this request about the long lines investment is a modification of their former request so that — are no longer asking for the income account of the long lines?

Mr. Herbert: Well, I can dispense with the income account of the long lines.

Mr. Thompson: On the record now it stands that Mr. Herbert has requested us to give him the detail going to make up Exhibit Number 10, broken down particularly so that he will have, among other things, a summarized state-

ment of the property and assets devoted to license contract activities, to holding company activities, and then outside of this exhibit, the property devoted to the long lines, and he is to advise us later as to whether one or two years will do in lieu of all; is that correct, Mr. Herbert?

Mr. Herbert: That is correct.

Mr. Thompson: And of course, you will understand that the long lines is actual and that, as explained by Mr. Heiss, certain of these breakdowns depend upon his judgment as to the property of the others. That, as I understand it, is the only request now pending.

By Mr. Herbert:

Q. Now, taking up the department of development and research, Mr. Heiss, that was a separate department of the A. T. & T. until the incorporation of the Bell Labora- [fol. 5892] tories, was it not?

A. No, the development of research department here was in existence through the entire period for which we report here. I think it was started back in 1918 or '19 as a separate department of the American Company. Now, what happened was this, certain development and research work was done by the American Company itself. That, of course, had several hundred employees. Now, prior to the organization of the Bell Laboratories, other research work was done by the Western Electric Company.

Q. Paid for by the A. T. & T.?

A. Some of it was paid for to the extent that it represented fundamental research and development for which we took the responsibility under the license contract, it was paid for, billed by the Western to the American Company and paid for.

Q. So as to not go too far afield, Mr. Heiss, let's take 1923, $2,841,988.00, development and research?

A. Yes, sir.

Q. Is part of that money paid by the A. T. & T. to Western Electric and part of it money paid by the A. T. & T. in its own development and research?

A. To the best of my knowledge, there is nothing in that item of $2,841,000.00 paid by the Western to the American Company.

Q. No, I say paid by the American Company?

A. All right. I shall be glad to give you that.

Q. No, I didn't ask you for the amount. I was just trying to give you the method now.

A. That is what I would like very much to give you. Of the $2,841,988.00 set off against development and research, $1,230,332.00 was paid to the Western for fundamental research and development work. Now then, there may have been other minor items paid to the Western. I [fol. 5893] have an item here of $25,879.00 additional for engineers' materials.

Q. That would come in the next section, wouldn't it?

A. No. No, that is material used in experimental work.

Q. Isn't that in operation and engineering?

A. No, this is materials used by the development and research department. Now, the $1,600,000.00, which is the difference between the $1,200,000.00 and $2,800,000.00 that I have mentioned, is work which was done by the development and research department per se, that is, the department in the American Company.

Now, when the Bell Telephone Laboratories were organized, the Laboratories took over the work, the research work that was being done by the Western Electric Company, it was considered a better organization, it was considered that that arrangement would fit in more nearly to the intent and purpose of the license contract.

Now, in connection with the organization of Laboratories, there were taken over from Western Electric something like 4000 people who were thereafter employees of the Laboratories. At the same time, probably a few, not many, but a very few people were taken over from the Development and research department of the American Company into the Laboratories. But since the organization of the Laboratories, research has been carried on at two points, one, in the Laboratories, and second, in the American Company itself, and the two departments carrying on research are headed by Dr. Jewett, who is a Vice President of the American Company and the President of the Laboratories.

Q. You mean that the A. T. & T. department called the development and research department still carries on?

A. It does, and the expenses set off against the develop- [fol. 5894] ment and research department in this Exhibit include, first, the expenses incurred directly by the American Company's development and research department, plus

those expenditures which are billed to it by the Laboratories.

Q. Bell Laboratories was incorporated, I believe in——

A. I think at the end of 1924. I can give you the exact date.

Q. Your breakdown then will show what part was paid directly by the A. T. & T., that is, expended in its own department, and what part is paid by way of bills to the Bell Laboratories?

A. That is right.

Q. And prior to that, to the Western Electric?

A. That is right. And it was organized at the end of 1924 and the report of the American Company contains comment, Page 18, "As a result of our study, a new organization, to be known as the Bell Telephone Laboratories, Incorporated, has been formed. This new organization, which is owned jointly by the American Telephone & Telegraph Company and the Western Electric Company, has taken over all of the research and development functions hitherto performed for the Bell System in the engineering department of the Western Electric Company. The President of the Laboratories is——

Commissioner Geiger: I don't believe it would hardly pay to read that into the record. Now, may I make a suggestion here, the witness is so full of the knowledge of this great company and so ready in answering that probably he answers just a little beyond what you need to answer. You are under cross-examination, you can answer yes or no and make such explanations as you are required to give. In other words, don't let the question give you an opportunity [fol. 5895] to give more than he is searching for.

And thereupon a recess was taken until 1:30 o'clock P. M. of same day, Friday, June 19, 1931.

[fol. 5896] Friday Afternoon Session

June 19, 1931.

And also Charles A. Heiss, resuming the stand, continued his testimony as follows:

Cross-examined by Mr. Herbert:

Q. Will your breakdown of Exhibit 10 show us in regard to the development and research department for each of

the years what was paid to the Western Electric separately from what was expended in your own department?

A. Yes.

Q. In the years prior to the formation of the Bell Laboratories?

A. Yes.

Q. And do you know how those charges were based in those years, are they on a cost basis?

A. Yes.

Q. Is that by virtue of that 1882 contract?

A. Yes.

Q. That will appear in that contract when it is furnished to us, that is, the method?

A. The method will not. The broad basis of the division appears in the 1882 contract, and in the license contract.

Q. Now, in this matter of inventions, which general way are the inventions patented, that is, what patents go to Western and what patents to A. T. & T.?

A. Under the license contract, the American Company takes responsibility for fundamental research and development in the art of telephony. The same principle is also written in the 1882 contract. Anything relating to the fundamentals of the art of telephony, the patent is acquired and paid for by the American Company. Patents relating [fol. 5897] to manufacture and design, engineering specifications, any patent which ties itself up more immediately to the manufacture goes to the Western Electric and is paid for by them. Now, as this research work is carried on, you have this situation, the American Company will take out certain patents, the Western Electric will take out certain patents. In the Laboratories, certain investigations are carried to the point where patents result. Every year or periodically, the whole situation is reviewed and the patents are then distributed to the interest which is responsible for them and the adjustment as between the two interests, the American Company and the Western Electric, is made on the cost basis.

Q. Well, I mean this development and research work is constantly going on, is constantly resulting in patented items, is it?

A. That is right.

Q. And frequently a patent is finally issued, all of the

cost of the work which has gone into the invention which becomes patented, is that all accurately allocated?

A. It is, on a cost basis; if it is a patent which the Western should bear the cost of and the patent is taken out by the American Company, the patent is transferred to the Western and the Western is charged with the cost, and vice versa, if the——

Commissioner Geiger: I think you have answered the question. "Yes" would have been an answer to it. We don't gain anything by elaborating, unless he wishes you to elaborate.

Q. The vacuum tube that we were discussing yesterday that is used in the sound picture machines, who has the patent on that?

A. That I would have to check. I couldn't tell you whether that is owned by the American Company or the Western. [fol. 5898] I will be glad to furnish you that information.

Q. You will advise us?

A. I will advise you.

Q. Where will we ascertain, Mr. Heiss, the figures on the cost of developing the articles or items which go to make up this sound picture equipment?

A. I can't answer that yes or no, but here is the——

Commissioner Geiger: Let me ask just one question there, can you furnish the figures to Mr. Herbert showing how much it cost and how it is allocated for the development of the tube?

The Witness: It would have to be an estimate, Your Honor, because in developing——

Commissioner Geiger: That is all that is necessary.

Q. Didn't you just testify that you allocated the costs of development on each particular item as it was patented?

A. Yes, but there is something back of that, I must say, to clear up the situation and that is this, that this talking picture development is based on many patents.

Q. I am just referring to that as one instance?

A. And it may go into a great many patents, and whether you can allocate out the particular element relating to moving pictures or not, I am not certain.

Q. You say if you furnish us that it would have to be an estimated figure?

A. It would have to be estimated.

By Commissioner Geiger:

Q. Let me ask one question there, does the company which makes the sound pictures pay a royalty to the Western Electric Company for the use of that tube?

A. No, I think not to the Western, Your Honor.

Q. Well, to any of the subsidiary companies?

[fol. 5899] A. The American Company receive- a royalty from the Electrical Research Products Company on the sound pictures.

Q. I am not talking about the sound pictures, on the tube, vacuum tube?

A. Not specifically on the vacuum tube, no, sir.

By Mr. Herbert:

Q. The American Company receives one-third of the royalty which the Electrical Research Products receives?

A. One-third of the royalty which the Electrical Research Products collects, yes, on that particular development.

Q. And Electrical Research Products royalty is a royalty, computed on a per thousand foot of negative film basis?

A. I don't know how it is based. I know the Electrical Research Products receives a royalty from the moving picture houses which use its apparatus.

Q. Now, since the organization of the Bell Laboratories, how do A. T. & T. and Western Electric divide the cost of that concern?

A. All work done in the Laboratories is done on a job basis, and in connection with each job, the executives of the Laboratories, the administrative heads of the development and research department and the Western Electric get together and determine the way the cost, whether the work is fundamental research or whether it is a cost which the Western should bear, and each case is determined on the basis of the facts and is billed accordingly.

Q. Then there is a judgment figure goes into that every time there is a bill rendered to either company?

A. Must necessarily be so. Certain items, of course, are perfectly clear, there is no judgment in a great many jobs, [fol. 5900] but there are jobs in which there is a judgment factor.

Q. Now, there is a lot of work being done on order, isn't there?

A. Yes, sir, and there is work done for the government on order and that is billed out to the government. There is a large amount of work done for the Electrical Research Products on order and that is billed to the Electrical Research Products.

Q. I mean when work is done on order, it is billed to the company ordering it?

A. Not unless it is an outside company.

Q. I mean when Western Electric orders something, Western Electric gets the bill and when A. T. & T. orders something, A. T. & T. gets the bill?

A. No, Western may order something which is a thing that should be undertaken, if it involves fundamental research, the American Company bears the cost of it. If the American Company orders something and the research is carried to the point where it involves both fundamental research and manufacturing design and so on, the cost is apportioned. The cost is apportioned according to the license contract and the 1882 contract.

Q. What do you define as fundamental research, if you can amplify it a little bit, cite an example? Is the vacuum tube a fundamental research problem?

A. It was at one time.

Q. So that a large part of that experimental expense during that period is borne by A. T. & T.?

A. The initial work on the development of the vacuum tube which went into a great many phases of the electrical science was assumed, that is, fundamental research, that was assumed by the American Company. Now, when you have a tube, if it is a matter of change of design, of change [fol. 5901] in meeting the requirements of particular use of it, and there are many types of tubes, dozens of types of tubes, now when it comes to that point, the Western Electric bears the cost because it is something which enters into the cost of the manufacture of tubes.

Q. All right, do you know whether or not the Western Electric has a development and research department, or whether any portion of your own department is allocated to non-Bell business?

A. There are two questions there. The Western has no research department. It has an engineering department

connected with its immediate manufacture. Now, I said a few minutes ago as to the expense of non-telephone research——

Q. Non-Bell business, I said?

A. As far as the Western Electric is concerned, it spreads its cost of research over the non-Bell business just the same as it spreads it over the Bell business.

Commissioner Geiger: Now, would you answer this one question, in the allocation of these costs and expenses, can you tell us that there is no overloading or underloading the amount of costs that are allocated to the Bell Telephone and its subsidiaries? Now, you can just answer that.

The Witness: There is no overloading on the business, on the materials and supplies that are sold to the Bell Companies. My understanding is that when the Western gets its research bill from the Laboratories, it is spread over the cost of the manufactured product. Now, most of that is sold to the Bell Companies. Some of it is sold outside. No matter where the product is sold, it bears its proportionate load.

Q. Patented articles, telephonic articles, I believe patents [fol. 5902] are usually taken in the name of the Western Electric, are they not?

A. If it pertains to the fundamental art of telephony, they are taken by the American Company. If they pertain to manufacturing, design, engineering, specifications, intimately tied up with the manufacture, it goes to the Western.

Q. For example, are there any patents in connection with this rocker type of receiver?

A. I don't know just what you refer to.

Mr. Burr: The hand sets.

The Witness: The hand sets?

Q. The hand set?

A. The hand set, the patents tied up with the hand set would be quite a number, probably. Some of them are owned by the Western and some of them are owned by the American Company. The patents which relate to the receiver and the transmitter in the hand-set are patents which are owned by the American Company.

Q. Does the Western Company pay the American Company any money for the American Company's expenditures

in development and research or have they in any of these years?

A. So far as the American Company's own expenditures on research are concerned done by the American Company, no, the Western does not pay them anything. But if the American Company pays for the cost of a patent which should be with the Western Electric, the Western reimburses it for the cost.

Q. Have you got the figures on how much reimbursement has been made annually on that basis in these same years?

A. I can give you those figures. They are very small.

Q. They are very small?

A. Yes, sir.

Q. Will you furnish us with those?

A. I will be glad to furnish them.

[fol. 5903] Mr. Thompson: Western Electric payment to A. T. & T. for patents——

Q. No, for development and research expenses.

Mr. Thompson: I thought you said patents.

The Witness: I said there were no development and research expenses.

Q. Then your answer, if I am correct, is that the Western Electric has not paid the American any money during the years for development and research expenses?

A. I would have to check that. My impression in the recent years since the Bell Laboratories are formed, there has been no payment by the American Company for research development per se.

Q. Payment by the Western?

A. By the Western Company, except that the Western has purchased at cost such patents which the American Company may have taken out and paid for which should belong to the Western.

Q. Well, there were certainly inventions patented prior to the Bell Laboratories incorporation, the entire cost of development and research of which was borne by the American Company?

A. Yes, and I——

Q. And which inventions were used by Western Electric, weren't they?

A. I don't know as I understand your question.

Q. Maybe I worded it ambiguously. I say that prior to the incorporation of Bell Laboratories, certainly there were inventions developed entirely at the expense of the American Company in its development and research department, which inventions were patented and which patented articles were used by the Western Electric or manufactured under those patents.

A. The situation then was just the same as it is now, the Western prior to the organization of the Bell Laboratories, the Western conducted the Research Department and the [fol. 5904] Western billed the American Company just the same as the Laboratories bill the American Company for fundamental research and the Western retained in its own company the cost of research which it did for itself, and now when the patents are taken up, no matter whether they are Western patents or American Company patents, they are available to the licensee companies and they are available to the Western Electric Company under which manufactures can go on for the companies.

Q. You gave us an example of one year where there was $1,600,000.00, in round figures, paid to the Western Electric, and $1,200,000.00 spent in your own development and research department?

A. I did.

Q. Taking that as an example, are you prepared to say, Mr. Heiss, that no part of that $1,200,000.00 was spent in the development of articles which were patented and then manufactured by Western Electric under these patents?

A. Oh, I am not going to state that. I said the $1,200,000.00 paid by the American Company to the Western Electric was the same type of payment made to the Western Electric for carrying on fundamental research as if the American Company had made the payment to the Bell Laboratories. Now, if a patent resulted as a result of that, the patent would be available for the Western Electric to use in its manufacturing work.

Q. Well, that same patent invention was made available to the Western Electric for manufacture for the non-Bell trade as well, was it not?

A. If they manufactured such articles and sold them to the non-Bell Companies, yes.

Q. Now, how did the non-Bell customer pay for that invention?

A. Help pay for it in the loading which was added to [fol. 5905] the price of the article.

Q. He just pays the higher price which is charged to non-Bell customers?

A. Yes, sir.

Q. But he pays no annual sum into the American Company?

A. Not to the American Company, no, sir.

Q. In the way of a license contract or fee?

A. Some do, some don't.

Q. Non-Bell Companies?

A. Yes.

Q. You have Cincinnati and Southern New England, but what others?

A. I think there are three or four strictly non-Bell Companies or non-Bell Companies that pay a license fee.

Q. You don't even consider Cincinnati and New England as non-Bell Companies, do you?

A. I consider, for this purpose, I consider the Cincinnati Company as a licensee company, as a Bell Company.

Q. As a Bell Company?

A. Yes.

Q. Can you tell us any non-Bell Companies, the kind that buy their equipment through Graybar, that pay you a license contract fee?

A. I can't name any individual company, but there are——

Q. Could you give us the name of a company?

A. Yes, I could give you one, not in Ohio, I can give you one in Nebraska, the Lincoln Telephone & Telegraph Company, in which we haven't, I think, at the present time, a dollar of investment, pays the one and one-half per cent to the Northwestern Bell Company just the same as——

Q. To the Northwestern?

A. To the Northwestern, and the Northwestern Bell in turn pays it to the American.

Q. But there is no relation between the American Com- [fol. 5906] pany and the Lincoln?

A. No, but the money ultimately comes to the American Company.

Q. And you formerly did have a stock interest in it, is that right.

A. Years ago, we had, and then the stock interest was sold and the license contract was terminated, and subse-

quently they came and asked to have the license contract back.

Q. Does the Northwestern own any stock in it?

A. No, sir.

Q. Well when they have their license contract, they immediately purchase at Bell prices, don't they?

A. Yes.

Q. In your operating and engineering department, is that distinguished from your research and development department in that the first department works on the development and test of ideas leading up to inventions, and the second department, the operation of those invented articles afterwards, or can you tell us in your own words?

A. I think the record contains a very definite statement of the functions of the operations and engineering department. I don't want to encumber the record.

Q. It is at Page 5021?

A. Yes, begins at the bottom of Page 5020.

Q. Does your operating and engineering department direct the subsidiary companies where the directory printing orders are to be placed?

A. No, not to my knowledge.

Q. You specified that directory problems are part of that engineering department?

A. They study the whole question of the set-up of the directory and economical ways of printing that and style and so on, and advise the licensee companies as a service.

Q. In either of these two classifications that we just have [fol. 5907] been discussing, in the figures as they appear, "Total", is there any depreciation figure for plant?

A. No.

Q. Is that all salary and material used up in the work?

A. This is all salaries, expenses, miscellaneous expenses which go into the operating of the department.

Q. Now, in your next classification, Operation, General, will you furnish us the detail showing the total cost of operation of the American Company, exclusive of long lines, for each of those same years?

A. That is the 213,000 item for '23?

Q. Yes, sir.

Mr. Thompson: Total cost and what else, Mr. Herbert?

Mr. Herbert: It is the total cost allocated to——

Mr. Thompson: Yes, but what you want is the total cost of that department and how the allocation was made?

Mr. Herbert: I want the total cost of the operation department of the American Telephone & Telegraph Company for each of those years, exclusive of long lines.

The Witness: Let me clear that up, Mr. Herbert.

Q. You don't have a separate department which you call operations for long lines, do you?

A. The long lines has its own operating department and all of that is excluded.

Q. That is what I meant?

A. These various captions here represent specific departments within the American Company, development and research, operation and engineering department, then we have a small department, about 30 or 35 people, called Operations General, because of the character of its activities.

Mr. Thompson: Well, as I understand, Mr. Heiss, what Mr. Herbert wants is the total cost of that department and [fol. 5908] the basis upon which it was allocated here to license contract companies.

Q. Does that 213,000 for example, represent the total cost of operation for that year?

A. No, I think there is about 25 or 30 thousand dollars excluded.

Q. That is the portion that was allocated to the holding company?

A. That is the portion that was thrown out entirely.

Q. Well, it went somewhere, didn't it?

A. It was excluded entirely.

Q. From this exhibit?

A. Yes, it is excluded entirely. If it went to the holding company end of our business, so-called holding end, it would be in the column "Indirect Costs," the amount would be in the column "Indirect Costs," If it was excluded entirely, it doesn't appear in this exhibit at all.

Q. You mean the total cost of your operating department was some 25 or 20 odd thousand additional for 1923?

A. I will give you the figure in a minute. We excluded from that department $28,189.00 and that doesn't appear in this statement at all, that is for the year 1923.

Q. But the first three items contain substantially all of

the expenditures of the American Company for these three classifications?

A. They do. I take $716.00 out of development and research, which was a job which had no relation to the telephone business whatsoever, and I took $28,189.00 out of the operations general.

Q. And none of these departments was allocated to the holding company end?

A. No.

Mr. Burr: You still want that detail, that total of the [fol. 5909] Operations General cost by the years?

Mr. Herbert: Yes. It is very simple, because he has it.

The Witness: I may say, Mr. Herbert, that I confess that in making this allocation, we made a little error in not allocating some of this 29,000 to a holding company end, but it was discovered after we had done it, so we left it out entirely, so that we penalized ourselves to that extent.

Q. Now, your personnel department, does that function on behalf of the Western Electric as well?

A. No, sir.

Q. Not at all?

A. No, sir. The Western has its own personnel.

Q. And is that figure as it appears each year, what is the total cost for each year, if you have it, of your personnel department, is it the sum total of the two columns direct and indirect?

A. I can say for 1923, the total cost is the figure stated here. Now, if you want to bear with me, I can give you the figures for the succeeding years. The same is true of 1924. It is true of 1925, 1926, 1927, 1928, 1929 and 1930.

Q. Does this personnel department function for long lines?

A. Not any more than in any other sense than it functions for the licensee companies throughout the United States.

Q. Do long lines maintain their own personnel department?

A. Yes, sir.

Q. So there are two personnel departments in the A. T. & T.?

A. Yes.

Q. How many employees in the long lines branch, approximately?

A. My rough guess is about 11,000.

Q. No, I meant how many in the personnel department [fol. 5910] of the long lines branch?

A. Oh, I couldn't give you that offhand. I should say at least fifteen or twenty people.

Q. No person is employed in both personnel departments?

A. No, sir.

Q. That is, at the same time?

A. No, sir.

Q. And there is no allocation of the personnel department to the holding company activities?

A. Yes.

Q. Oh, it is an indirect and then it is totaled in completely and then just your judgment deductions at the bottom?

A. That is the idea.

Q. Now, coming to your information department, that conducts the publicity of the company?

A. Yes, sir.

Q. Other than advertising, or is that included?

A. Institutional advertising is in there, makes up the largest part of the expense of the department.

Q. Now, so far as the official publicity that comes out in the Bell System Quarterly and the Technical Journal, is that correct?

A. Well, the publicity which you find in the various magazines and so on throughout the country may be paid by any one of four different interests, may be paid by the American Company, general department, may be paid by the long lines department, may be paid by the Bell Securities Company direct and may be paid by the local companies.

Q. I didn't mean in that sense. I meant of those two publications, what you might say official publications of the company.

A. You, I believe, referred to Bell Quarterly?

Q. Yes.

A. That is a publication gotten out for the benefit of the employees of the business.

Q. Of the system?

A. Yes, sir.

[fol. 5911] Q. Is that distributed free?

A. Goes free to the employees, and some copies are sold to libraries and colleges.

Q. Every employee of the Bell System gets one?

A. No, just the supervisory employees. It is available to any employee who wants to read it, but it isn't distributed to every employee.

Q. It also goes to the Western Electric officials?

A. A few copies go to the Western Electric, yes.

Q. No charge is made for that?

A. No charge for it.

Q. That also applies to Technical Journal, I believe you called it?

A. That is true, yes, sir.

Q. How often does that come out?

A. I think the Technical Journal either comes out monthly or quarterly. The prime purpose is for the benefit of the employees of the telephone company.

Q. Are they available to outsiders, commission engineers and so forth?

A. Yes, we send out a certain number of copies, we can't help ourselves, we have requests that we just can't refuse.

Q. But you don't carry them all on your mailing list?

A. Oh, no, we turn down a great many.

Q. Have you any idea how large that publication is, in circulation, I mean, a thousand or two thousand or fifty thousand?

A. It would just be a guess.

Q. That is all I want.

A. It runs up into the thousands, and the outside distribution is very little.

Q. You wouldn't want to approximate how many thousand?

A. No, I don't because that would be guessing.

Q. Now, referring to the advertising phase of the work, [fol. 5912] Mr. Heiss, does the American Company pay any of the licensee companies for the advertisement on long distance in the directories of the licensee companies?

A. No. The American Company, general department, pays for its advertising and the long lines pays for its and the Associated Companies pay for theirs.

Q. The American Company gets advertising in all the directories, doesn't it?

A. The American Company, general department, hasn't anything to sell.

Q. The American Company, which department?

A. The general department of the American Company

has nothing to sell. Now, the long lines department of the American Company pays for its own advertising.

Q. I am not discussing about advertising in a newspaper or a monthly magazine, I am talking about telephone directories of the licensee companies, there is long distance advertising in each one of these, is there not?

A. Yes.

Q. For which the American Company doesn't pay the subsidiary licensee company anything?

A. No, except that it does pay in this respect, the American Company, long lines department, pays every company a commission for originating business and that commission covers any and all services which the licensee company performs in bringing together and originating the business.

Q. That commission is based on that service, not on the advertising, isn't it?

A. No, it is based on all the services.

Q. Well, the non-Bell Companies get the same commission for originating costs, don't they?

A. Yes, and they probably advertise for us just the same.

[fol. 5913] Q. But you don't know?

A. It would be good business for them to do so.

Q. Does the Long lines department have an expense for advertising each year?

A. Yes, sir, very sizable expense.

Q. You are furnishing us the breakdown of the item, Information, along with all the others on this Exhibit 10, which will show the amount directed to advertising by the license department of the business?

A. Yes, sir.

Q. Will you also furnish us the total of dollars spent by the long lines department annual- for the same years for its advertising?

A. I can say this to you, you may not want that, for the last three years, it has ranged from three hundred thousand to five hundred thousand dollars.

Mr. Thompson: That is the long lines?

The Witness: That is the long lines advertising expenses range from 300,000 odd to 500,000 dollars.

Q. Well, have you the detail there for what advertising runs for this department or the business for those same years?

Mr. Thompson: Information department?

Q. Yes, the information.

A. I can give it to you if you will permit me to get my reports. I will have to give it to you broken down. For the year 1928, classified directory advertising, $6041.00. In periodicals, $609,491.00. Through Associated Companies, $5,370.00. Through bulletins and pamphlets for employees, $4,570.00. Bulletins and pamphlets for the general public $36,773.00. Educational publicity, $44,865.00. Distribution of periodicals, $1,044.00. Advertising through moving picture——

Q. You can't give us the total?

[fol. 5914] A. I haven't the total here. I can give you an approximation.

Q. That is all we want at this time, because you are furnishing us the breakdown.

A. That, my guess would be for 1928, you have close to $700,000.00.

Mr. Thompson: Is there some request that you made there, Mr. Herbert, additional request?

Mr. Herbert: He is furnishing all this in detail to us on the breakdown. That is why I just wanted the approximation here just for comparative purposes.

Q. Then will you furnish us the exact amount spent by long lines in these same years for its advertising? That is the request.

Mr. Thompson: And of course, it will depend on your advising us later as to whether you want the two years or all of the years?

Mr. Herbert: Last three years is sufficient.

Mr. Thompson: All right, amount spent by long lines for advertising, '28, '29 and '30.

Q. Now, do you have on file at your offices the advertising copy represented by this approximation of 700,000 that you speak of?

A. I can furnish you samples. You probably wouldn't want——

Q. I don't want every——

A. I can furnish you samples.

Mr. Burr: Samples of advertising copy of what, the American Company?

Mr. Thompson: Of the American Telephone & Telegraph Company.

Q. Well, will you make available to our representative the copy, the opportunity to go through it, that is what I [fol. 5915] mean. I assume that you keep records of the copy?

A. I think if you want to take the time I can give you some copy right now of the type. Advertisement wholly in the interest of the licensee companies.

Q. You have included in your legal department now also the cost of these bulletins?

A. Sent out for the information of our license companies.

Q. And the breakdown will show all of those various classified expenses of the legal department?

A. Breakdown for the legal department will show salaries, traveling, and about 25 different classes, 20 or 25 different classes of expense, printing and stationery, all those things.

Q. Now, coming to the public relations department you testified on direct examination that this department represents the companies of the system before the Interstate Commerce Commission and the Federal Government. In what way does it represent them?

A. My testimony said this department represented before the Interstate Commerce Commission, my testimony said it represented the companies of the system in transactions before the Interstate Commerce Commission under — Graham Act. Now, the Graham Act is an Act which deals with the purchases and sales of properties as between the so-called independent telephone group and the Bell group and these transactions must be presented or are presented to the Interstate Commerce Commission for approval, and one section of this department of public relations handles all the cases involving the licensee companies because it is better to have a uniform presentation than to have each company spend the carfare and the time to go down to Washington [fol. 5916] and handle its own transactions.

Q. And the company doesn't have any of its local counsel present?

A. Doesn't have its local counsel present. If they are nearby, they may drop in, but the responsibility for the work is taken by the American Company on behalf of the Companies.

Q. Couldn't the cost of each individual transaction of that nature be ascertained at the time?

A. Oh, no. It could in a general way, but there are a great many letters and telephone conversations and time, ten minutes here and ten minutes there, that you could never figure it out.

Q. But is one company in the system liable to pay more than its proportionate share of that expense than another one?

A. This year it may, next year it may not pay anything, some other company may. That is the whole philosophy of the license contract.

Q. And over a five year period, there may be a variation yet?

A. Oh, there may be, but that is all in the philosophy on which the license contract was based.

Mr. Burr: I think the Ohio Company is responsible for more of that expense than perhaps any other one.

Q. How often is there a request for permit from the Federal Government to lay cables across waterways which serve as Federal boundaries?

A. Not very frequently. They do arise.

Q. And that is only for the American Company, isn't it?

A. Oh, no. The Michigan Company lays cables from Detroit to Windsor, cables from Mackinaw City.

Q. Has the Ohio Company any of those?

A. No, I think not.

[fol. 5917] Mr. Burr: We have had.

Mr. Herbert: When was the last one?

Mr. Burr: I can't tell you that.

Mr. Herbert: Since 1925.

Mr. Burr: I can't tell you that.

Mr. Herbert: Just testing the method of allocation of these costs, that is all.

By Mr. Herbert:

Q. As a matter of fact, those costs could be worked out in each individual case, could they not, and the company charged directly for the service rendered to it?

A. Yes, but that is not the basis on which the license contract is set up.

Q. That is all I want to know. Now, coming to your own department, Comptroller's department, you file a consolidated income tax for all the companies, don't you?

A. Yes, sir, all the companies that come under the requirement of a consolidated return.

Q. And you receive the income tax reports filed by each one of your subsidiary companies and by Western Electric and by each of the subsidiaries of the A. T. & T.?

A. Yes, we get data from them such as they would have to use in making up their own return and then probably considerable more in order to make the necessary eliminations that are involved.

Q. Well, the Western Electric showed a profit on its manufacturing business of approximately somewhere between twelve and thirteen million for 1930, did they not?

A. That was my impression of the testimony given here, yes.

Q. The statement I have made is approximately correct?

A. Yes.

[fol. 5918] Q. And about eight million on its non-operating incomes?

A. Whatever the record shows.

Q. Now, of that twelve million, I believe Mr. Gregory testified that 93 per cent of their business, approximately, was from goods sold to Associated Companies?

A. Again the records will show.

Q. And what was the A. T. & T. Company's treatment of that when it filed its consolidated income tax return, is that an interdepartmental profit?

Mr. Thompson: Pardon me, may I ask there, is your question, Mr. Herbert, as to whether the American Company did or did not pay income tax on that?

Mr. Herbert: That is my question substantially, yes.

The Witness: The American Company paid income tax on that.

Q. And will you explain how? Did it declare that as a profit?

A. It did not declare it as a profit except that as this profit showed up in the total profit on which we paid tax.

Q. Mr. Heiss, you heard Mr. Gregory state that when they sold goods to Graybar and Graybar hadn't sold those goods at the end of that year——

A. That is another matter. The Western doesn't report that profit to us in a case of that kind until the goods are sold, but that data doesn't come to the American Company.

Q. I quite agree, but that isn't my point. The goods are still owned by the Ohio Bell after they are bought, they haven't been sold at the end of the year; does the same practice obtain?

A. No, we can not make the elimination. It is utterly [fol. 5919] impossible to make the inter-company eliminations of profit. The matter has been discussed with the internal revenue people. We get the return from Western. We get the Western's return just as any other company makes the return, we consolidate the return, we make eliminations of interest as payments backward and forth as far as we can, but we do not attempt to eliminate the profit of the Western Electric Company on system sales. I don't know how it could be done.

Q. Well, maybe we can get at it this way. Take 1930, you receive income tax reports from your long lines department?

A. Yes, sir.

Q. Separately?

A. We get data from the long lines department.

Q. You don't get an income tax report from them?

A. Covers substantially the same. We get the essential data.

Q. And then you get an actual income tax report return with a check from each one of the Associated Companies, do you not?

A. No, we get a large volume of data which is the basic data which they would use if they made a return to the government.

Q. Well, apart from the check, you get the return, together with the basic data?

A. Well, I don't know as—a completed return does not come in from the companies. We get the necessary data to make up the income tax return, the consolidated income tax return.

Q. They furnish you with the data computed on the basis that they would be filing it directly to Washington, do they not, and there is an adjustment between the two companies on the basis as if they were paying an income tax directly [fol. 5920] to the government; isn't that correct?

A. They filed with us the basic data required for the American Company to prepare the consolidated income tax return, and as it is worked out finally, the tax is ap-

portioned to the companies on the basis of the tax they would pay if they filed an individual return, and the American Company stands whatever cost there is in getting up the return. The American Company makes no profit whatsoever and has nothing but expense in making up the consolidated return to the Federal Government.

Q. Mr. Heiss, Mr. Gregory has agreed to furnish us the income tax returns for the last six years.

Mr. Thompson: Oh, no, Mr. Herbert.

Mr. Herbert: There was a request made.

Mr. Thompson: There was a request made and objected to and the ruling taken under advisement. That is one thing that we have not agreed to do.

The Witness: Now, before the settlement is made with the Western Electric, we build up a return, we go through the formality of developing the figures just as if we filled out an income tax return and compute the tax, which happens to be the same figure which enters into the payment we make to the government.

Q. Then do you mean to say that the sum total of income taxes which are paid directly into the A. T. & T. Company annually by all of the Associated Companies, together with Western Electric and all of the subsidiaries owned by the Bell Company, equal to the penny the sum total of the consolidated income tax returns?

A. Yes, sir.

Q. To the American Telephone & Telegraph?

[fol. 5921] A. I would not say to the penny.

Q. To the dollar?

A. To the dollar I can say, yes. We make absolutely no profit out of the Federal Income tax return. There is one possible exception might happen, one of our companies directly owned by the American Company might have a deficit, and in that case, the American Company, being the owner of the stock of the company and being the one that will be out of profit in dividends where a company has a deficit, takes the advantage of the deficit, but the deficit is taken for three years following that time by the company that made the return. We will put it the other way around, the company that had the deficit may claim that deficit for three succeeding tax returns in reducing its tax paid to the government, and in our dealings with our licensee companies, and the companies making this return they are re-

ported back for that advance. In all the years in which the American Company has made the consolidated income tax returns, it has been out of pocket. We paid in one year $800,000.00 of excess profits tax because, as a result of the consolidation of the returns, an excess profits tax resulted, which in the apportionment to the companies, we did not apportion back to them, gave them back, billed them the amount of the tax which they would have borne had they made their own return to the government, excluding the eliminations which they were privileged to make because they were a part of a system.

Q. At page 5033 of the record, Mr. Heiss, you testified that you annually audit the books of the Bell Company. Can you furnish us copies of those audits for the years '23 to '30?

[fol. 5922] Mr. Thompson: Of what company? Just the Ohio Bell?

Mr. Herbert: The Ohio Bell Company.

Mr. Thompson: Have you those available, Mr. Heiss?

The Witness: I think they are. Confidential documents made to the Ohio Bell.

Mr. Burr: What years?

Mr. Herbert: Made in 1925 to 1930, as far as that goes.

Mr. Thompson: May I consider that and reserve it?

Mr. Herbert: Yes, that is a request.

Mr. Thompson: If the Commission please, I would like to consider that last request before consenting.

Q. Also on that page you speak of payroll deductions for the purchase of stock by the employees of subsidiary companies, that is purchases of American stock?

A. That is right.

Q. The handling of all those collections is handled by the local company in each state, is it not?

A. The company collects for its own employees and then of course, we must coordinate the collections of all the companies in New York.

Commissioner Geiger: It is very difficult to hear you.

The Witness: I say each company makes its collections locally and then we, of course, must combine and treat all of these collections in New York.

Q. But I say each local company makes its own collections?

A. Yes.

Q. And sends the money to the American Company in New York?

A. Yes. But I didn't refer to the specific work of col- [fol. 5923] lecting the money. I referred to the development of the instructions on the returns and the forms and everything involved in carrying out this personnel activity.

Q. Well, then, the Associated Companies pay fully the expense of this plan whereby employees of the company purchase stock of the A. T. & T. Company?

A. The stock is sold as a personnel activity in the interest of the licensee companies and the licensee companies pay license revenue and do not pay specifically for the stock transactions.

Q. Isn't the stock sold, the stock of the A. T. & T.?

A. It is stock of the A. T. & T. sold in furtherance of the personnel situation of the local companies.

Q. Now, can you furnish us a statement showing the number of shares purchased by employees of the Ohio Bell for, say, two typical years, 1925 and 1930, the price at which the stock was purchased and the amount collected each of those years by the Ohio Company and paid into the American Company?

Mr. Thompson: 1925 and '30?

Mr. Herbert: Yes, sir.

Mr. Thompson: That is all right.

Q. And the American Company does not reimburse the local subsidiary company at all for that service, does it?

A. No, it has no occasion to. The work is done in the interests of the local companies.

Q. Will you describe how it is done in the interest of the local companies? It is done in the interest of the American Company and the subscriber primarily and the local company secondary, isn't it?

A. No, you have the wrong conception of it. We have 300,000 employees in the Bell system in the local companies [fol. 5924] and the local companies have an obligation, of course, to see that those employees have provided for them certain thrift activities and certain arrangements, whereby they can look forward to the time of retirement, whereby they can look forward to accumulating something to take care of old age and so on. The American Company provides the stock plan to help the local companies help their employees in making a satisfied and in creating a satisfied

personnel and a happy personnel and a personnel that is loyal.

Q. And that inures only to the benefit of the local companies?

A. It inures to the benefit of the employees.

Q. Does it inure to the benefit of the American Company?

A. Not directly, no. The American Company sells its stock at a premium and gets a premium for the shares sold.

Q. Does it inure to the benefit of the local company directly?

A. It creates a much happier——

Q. No, just answer that yes or no, if you will?

A. Yes, it does.

Q. But it doesn't inure to the benefit of the American Company, directly?

A. I said it inured to the benefit of the American Company in that the American Company sold certain stock to those employees and brought certain money into the business.

Q. Now, Mr. Heiss, let me recapitulate. A large amount of stock is annually sold in the American Company to the employees of the Associated Companies?

A. That is right.

Q. As a part of the service for which the local companies pay an annual license fee, you have employees whose time is devoted to issuing instructions and developing up that particular activity?

A. Developing thrift programs in the interest of the em- [fol. 5925] ployees of the system.

Q. And the actual clerical work of handling subscriptions is handled by each local company and then the total proceeds are furnished to the American Company?

A. The proceeds are transmitted monthly to the American Company.

Q. And the whole cost of that expense is borne or the actual collection is borne by the local company?

A. The cost of collection is very nominal.

Q. And the part of the cost of your comptroller's department is wholly paid by the Associated Companies and no part is paid by the American Company for this particular service?

A. No, the cost of my department is paid by the American Company and we receive a license revenue from the Associated Companies and the work which I do in my de-

partment is in the interests of helping the licensee companies put out a high type thrift program to their employees.

Q. Mr. Heiss, I am trying to hurry this examination.

A. So am I.

Q. And I don't want to leave the point that the Associated Companies, according to this Exhibit 10, pay the whole cost of this service, whether you receive any money from the American Company or not; isn't that correct?

A. The Associated Companies incur the nominal cost of collecting the installments on the stock.

Q. And they pay the whole cost of your department to the extent that it is devoted to developing up this phase?

A. That I can not admit.

Q. Well, do you deny it?

A. I have simply said in the past, the Associated Companies received a license contract service which they paid [fol. 5926] for, and this is included as one of the services.

Q. But you won't admit that the Associated Companies pay for all of that?

A. Why, when we have a loss of eleven million dollars shown in 1930, something isn't paid for,

Q. That is a judgment loss, isn't it, Mr. Heiss?

A. That is a sound judgment.

Q. What?

A. It is a sound judgment.

By Commissioner Geiger:

Q. Well, when you have sold the stock in the A. T. & T. to the employees of the local company, they pay for it, I presume, in installments so as to make the burden easy, and the stock goes down, who bears the loss, do you have to bear that loss or the Associated Companies?

A. No, sir.

Q. Does the individual subscriber bear the loss?

A. Your Honor, up to the time—it takes practically four years——

Q. Don't go so much into detail?

A. I was just going to give you the picture.

Q. I don't want all the picture, I want to know who bears the loss, if any?

A. The loss is the employee's.

Q. The loss is to the purchaser of the stock?

A. After the stock is issued, it is just like any other stock.

Q. I see. All right.

A. But I want to say, up to the time the stock is issued, we will refund money up to the amount paid in at any time.

Q. Exactly. But you don't guarantee the stock will stay at the market price?

A. Not after the stock is issued. The employee is entirely free to do with it as he pleases.

Q. Now, going to this instrument maintenance, when you [fol. 5927] furnish us the breakdown of Exhibit 10, will that show the amount in dollars reserved for instrument depreciation annually?

A. The instrument maintenance item can show that.

Q. I didn't say can, I said will it?

A. I said it can show that if you desire.

Q. Wouldn't your breakdown naturally show that?

A. We break it down in two items, ordinary repairs and depreciation, if you desire it on that basis.

Q. Would you do that then, please?

A. Yes.

Q. Will you show us how much of that depreciation was used that you set aside each year there in these figures?

A. I can show you the retirements of instruments, yes.

Q. Well, in other words, Mr. Heiss, you carried a capital account on these instruments?

A. Yes, sir.

Q. You set aside a depreciation reserve annually, didn't you?

A. Yes, sir.

Q. During the years that you owned the instruments, that is, the American Company?

A. Yes, sir.

Q. And you charged against that depreciation reserve in exactly the same fashion that the Ohio Bell does in the conduct of its business?

A. Yes, sir.

Q. I am asking you, if the breakdown won't show us, to furnish a statement showing the amount reserved for depreciation in that account each year and the amount of depreciation reserve which was used and the balance in the depreciation reserve at the end of each of those years?

A. My breakdown wouldn't normally show it, I would have no occasion to show that as an element of cost.

Q. Well, I am asking you to as an additional request.
[fol. 5928] Mr. Thompson: What you want in the amount of annual charge on account of depreciation?

Mr. Herbert: Yes, sir.

Mr. Thompson: The retirements during the period inquired about, that is, yearly, and then——

Mr. Herbert: The amounts charged to that depreciation account.

Mr. Thompson: All right. That would be because of retirements. And then the net addition to the depreciation reserve, the unexpended balance in the reserve yearly?

Mr. Herbert: Yes.

Mr. Thompson: All right.

Q. Now, when the American Company sold those instruments to the Associated Companies, that was at the end of December, 1927?

A. Yes.

Q. Do you know what price it sold them at?

A. Sold them at reproduction cost less 20 per cent., which was less than the book cost at which the American Company carried them.

Q. Sold them at reproduction cost——

A. Reproduction cost less 20 per cent.

Q. Where did you obtain that reproduction cost?

A. As a matter of judgment on the part of our engineers who knew what it cost to build an instrument.

Q. Well, you had a standard figured price for each instrument, didn't you?

A. All I can say is that when the instruments were sold, they were sold on the basis which I have indicated. I know nothing of any standard costs entering into the picture.

Q. Will you state that they were not sold at the——

A. I should change that "Reproduction cost" to "Current cost".

[fol. 5929] Q. To what?

A. To current cost less 20 per cent.

Q. Current cost?

A. Current cost less 20 per cent.

Q. What is current cost then?

A. The price at which the instruments were being produced at that time, at the time they were sold.

Q. You don't mean current price?

A. Current price.

Q. Oh, you mean now current price but not current cost?

A. Well, I think the term as he used was the current cost of producing the instrument less 20 per cent.

Q. But you are not certain of that?

A. I am not absolutely certain as to whether the cost means the cost of producing to the Western Electric or the cost at which the Western would normally sell those instruments, but it was 20 per cent. off of—20 per cent. was taken off of that figure, and the point I am making is that so far as the Ohio Bell was concerned, the amount at which the instruments were sold was materially less than the cost at which they were carried on the American Company's books.

Q. Mr. Heiss, let's take an example. I don't know what they cost, but let's assume that every instrument that the Ohio Bell Company purchased from the Western Electric in 1928 cost them ten dollars apiece, just a hypothetical price on them.

A. Every instrument which——

Q. Let's not say every instrument, let's say that in 1928, the Ohio Bell wanted to buy an instrument?

A. Yes.

Q. And they bought it from Western Electric?

A. Yes.

Q. And let's say that that was ten dollars, that is what Western Electric charged them?

A. Yes.

Q. Now, what I want to find out is when the American sold [fol. 5930] those instruments, transferred the title to them, to the Ohio Bell, in December of '27, I want to know whether it transferred the title to them at the current cost to the Ohio Bell or at the current cost to the Western Electric?

A. All I can say to you is that the instruments transferred to the Ohio Bell on December 31, 1927, cost the American Company $1,862,585.00, and they were sold to the Ohio Bell at $1,527,385.00.

Q. Now, can you give us the amount of money in the depreciation reserve on your books as of that date allocated to the Ohio Bell?

A. I can't give it to you allocated to the Ohio Bell, but I can give you the reserve as a total. The reserve as a total was started in 1912 by setting out of surplus——

Q. I am not interested in how it was started.

A. About nearly 50 per cent of the then cost of the instruments.

Q. How much was the reserve in 1927?
A. I haven't that particular item.
Q. You will furnish it to us?
A. I will furnish it to you.

By Commissioner Geiger:

Q. Why was this sale made in 1927 from A. T. & T. to the Ohio Bell and to your other subsidiary companies, of instruments.
A. I didn't get the first part of your question.
Q. Why was that sale made?
A. Because the time had come when, in the opinion of the American Company and the Associated Companies, it was better for the local companies to own the instruments direct.
Q. Rather than rent them?
A. Rather than rent them.
Q. Now, that is enough. Now, wait, those instruments [fol. 5931] were sold for 20 per cent less than they cost the A. T. & T.?
A. Yes, sir.
Q. How old were they, how much depreciation should there have been put on them?
A. I don't know what the average age was.
Q. Well, would it have been covered by 20 per cent?
A. 20 per cent was more, in my opinion, than the depreciation actually existing.
Q. Now, tell me whether this is a fact or not, that at that time, the A. T. & T. foresaw the fact that a lot of instruments that have been used by the Bell Companies and Associated Companies were about to be replaced by the new rocker type instrument, and that you thought you would sell them to the local company and get rid of them in that way wholesale?
A. That was not the fact.
Q. All right.
A. That didn't control the situation at all.
Q. That hadn't anything to do with the situation?
A. Had nothing whatever to do with the situation.

By Mr. Herbert:

Q. Isn't it a fact, Mr. Heiss, that the American Company paid manufacturing cost plus 20 per cent to the Western

for all those instruments down to and including December, 1927?

A. Manufacturing cost less 20 per cent.

Q. Plus 20 per cent.

A. Cost plus 20 per cent.

Q. Under the 1882 contract?

A. Yes.

Q. Now, isn't it a fact that when the instruments were sold to the Associated Companies that they were sold at the new current cost price as it appeared on the price lists [fol. 5932] of the Western Electric to the Associated Companies effective on and after January, 1928?

A. I do not want to——

Q. Less 20 per cent?

A. I do not want to commit myself on what—As far as I know, the price was determined outside of my department, but my knowledge is that the basis of the sale was then replacement cost of the instrument less 20 per cent, and I know that that brought the price of the instruments below the amount that we carried them on our books.

Q. Now, Mr. Heiss, you have stated that repeatedly and I don't think it is necessary to insert it in every answer you make. I am trying to ask you to tell us whether or not when you speak now of replacement cost, if you mean if it were destroyed and the Ohio Bell had to replace it on January 1st, 1928, do you mean the cost to the Ohio Bell, when it bought it from the Western Electric on that date?

A. I can not, I have told you I couldn't answer the question, I don't know just exactly what the definition of "Replacement Cost" is as it was used in this transaction.

By Commissioner Geiger:

Q. Let me ask you what I think would be a simple way, can't you tell us whether or not the A. T. & T. made any money on buying those instruments from the Western Electric and selling them at a different, either advanced or less price, to the Associated Companies?

A. They made no money.

Q. Of course, they were old instruments, they averaged ten years old?

A. No, Your Honor, the Associated Companies had the right to turn those estimates in just as frequently as they needed replacement, and we were anxious that they would

turn them in very rapidly to keep the service to a high [fol. 5933] standard and many of these instruments hadn't a life of more than one or two or three years. The whole motive of the American Company in holding on to the ownership of the instruments up to that time was to induce, to save a situation where the Associated Companies would quickly turn over the receivers and transmitters and keep themselves supplied with good, efficient transmitters in order to build the service up to a high standard.

Q. We have got all that. Now, let me ask you another question. After the sale from the A. T. & T. to the local companies of these instruments at 20 per cent less than cost, at what price can they be turned back from the local companies to the Western Electric to replace them with new instruments.

A. Today?

Q. Yes, who is going to bear that loss?

A. That is a matter I should be very happy to inform myself on and tell you.

Q. In other words, let me get the picture to you, the thing that impressed me was this, the possibility only, and I don't know that it has any background or fact, but the A. T. & T. for a long period of years owned the instruments and received their rentals from the local company, then came along a time when they felt for some reason it would be wise to sell them to the local company, which they did for a price of 20 per cent less than cost. Now, the local company has the instrument, necessarily the instrument is somewhat antiquated and possibly well-worn. Now, a time comes along when the local company has to replace those instruments with new instruments. Who bears the loss? In other words, they loaded them up with a lot of antiquated instruments on which they will have to bear the loss?

A. Which they have to absorb? My answer would be no, [fol. 5934] that the Ohio Bell can furnish you the facts as to whether or not they lost anything on those instruments in turning them back.

By Mr. Herbert:

Q. Mr. Heiss, will you furnish us with a statement showing the number of instruments, title to which was transferred to the Ohio Bell? I don't want it now. I want that furnished by way of a statement?

A. I can do it, give it to you now, if you want it. There were 35,037 switchboard receivers, there were 16,000 switchboard transmitters, there were 12,235 switchboard induction coils, there were 615,355 station receivers, 632,900 station transmitters, 615,298 station induction coils, and 135,000 hand sets.

By Commissioner Geiger:

Q. What was the total?

A. I haven't the total of——

Q. The total price?

A. Oh, the total price was $1,614,318.17 with 20 per cent off would be $1,527,385.95.

By Mr. Thompson:

Q. What was your first figure $1,862,000.00, did you say?

A. The cost to the American Company was $1,862,585.00, and they were sold at $1,527,385.00.

By Commissioner Geiger:

Q. Let me ask you if this is roughly correct, that all the station receivers, what do you call the telephones you put up to your ear, 1,100,000 of them?

A. Transmitters and receivers. The receiver is the——

Q. Now if you had sold all the transmitters and receivers that you had at $2.00 apiece, you would have produced the amount of money that you bid and would have thrown in all the other stuff for nothing, is that about the way it works out?

A. That is about the way it works out. I can give you the price on each of them.

[fol. 5935] Q. I don't want the price on each of them.

A. That is about the way it would work out.

Mr. Herbert: I am asking him to furnish us a statement, Your Honor, rather than testifying to it now, of the items which he has just read, the unit prices at which they were sold to the Ohio Bell and the unit prices which were charged by the Western Electric on the day following that date of sale, January 1st, 1928, then we have got it all on one sheet of paper where we can grasp it. I don't see any complex situation arising in connection with it. We seem to have a terrible time getting down to the point I am trying to make. The witness has used several different

terms now in reference to this. He used reproduction cost, he has used replaced cost and he used current cost and he has used current price, and those can mean a lot of different things. Now, I just want to ascertain by that statement which I have asked for, what relation the price at which that stuff was turned over to the Ohio Bell in December 31, 1927, bore to the price it would have cost the Ohio Bell had it bought from Western Electric on January 1st, 1928.

Commissioner Geiger: You can furnish us that, can you?

The Witness: I can furnish that. I recognize I have used three or four terms, but it is the current cost of that instrument.

Commissioner Geiger: Now, let me see if I understand that.

By Mr. Herbert:

Q. Cost to whom?

A. Well, that is the thing I will have to find out.

Q. Well, until we know, then, the use of the words "Cur-
[fol. 5936] rent Cost" doesn't determine the point?

A. I assume that it would mean the current cost at which that instrument could be acquired.

Mr. Thompson: Let's see if I may understand you. I just want to know so we will get that data correctly. You want the number as Mr. Heiss has testified to?

Mr. Herbert: He has just read them into the record, the numbers.

Mr. Thompson: He can prepare a statement as to that. Then you want unit prices?

Mr. Herbert: He might as well include those on the statement, that is all, the numbers of those items, the unit prices at which they were sold to the Ohio Bell, totalling the figure which he has recited of $1,500,000.00, and something.

Mr. Thompson: And what the Western Electric price was on the day following for the same instrument new?

Mr. Herbert: To the Ohio Bell.

Mr. Thompson: Yes. I see no objection to that.

By Mr. Herbert:

Q. Now, on your tax item in your Exhibit 10, are income taxes included in that?

A. Yes, sir.

Q. Will you furnish us a complete statement of the taxes paid for these years apportioned as between long lines, non-telephone and license taxes?

A. That would normally come in under your request this morning.

Mr. Thompson: Breakdown of ten.

Q. Well, if it is included in that. Will that breakdown show whether there is a capital stock tax in there?

A. In the years in which there was one.

Q. Of which company?

[fol. 5937] A. Capital stock tax paid by the American.

Q. I believe you have shown the average cost of moneys at under 7 per cent all the way through here ranging from six to seven?

A. The bottom of Exhibit 10 will have the average cost of funds for each of the years.

Q. And didn't you show a different cost of funds for the same years in the Illinois case?

A. I never testified on the cost of funds in the Illinois case.

Q. Well, didn't the A. T. & T.?

A. Not to my knowledge.

Q. Didn't they show a cost of funds up to eight per cent?

A. You may be referring to some testimony we put in the Michigan case——

Mr. Thompson: On the rate of return?

Mr. Herbert: Cost of funds.

The Witness: This is self-explanatory. It is the cost of funds to the American Company in the years stated.

Q. That includes dividends too, doesn't it?

A. Yes, sir.

Q. Did you testify to cost of funds in the Michigan case?

A. Yes, several times.

Q. Did you use this same percentage?

A. Last week when I testified——

Q. No, I mean the other time before?

A. When I testified in 1926 and I testified in 1928, I used a different method of determining cost of money.

Q. Well, then, it depends on the method you use where you come out in money?

A. This is a much more conservative method than I used in the past.

Q. But the method you used and testified to in Michigan earlier in the case showed upwards of eight per cent?

[fol. 5938] A. No, only as to certain parts of our money. If the Commission wants to take the time, I don't think it is important, if anybody wants to take the time, I will be very happy to explain any differences between the method used here and the method previously used, but I think it is entirely irrelevant. Of course, in time, we have had time to think this over, these matters over and have tried to improve our method of presenting the cost of funds.

Q. Will your breakdown include the method and show just how you arrived at that percentage?

A. At this percentage?

Q. Yes.

A. Yes, sir, I will be glad to include that.

Mr. Herbert: Well, with that, I will not continue the cross-examination.

Mr. Thompson: Is that all, Mr. Herbert?

Mr. Herbert: Just a few more questions.

Q. You have also included the cost of temporary financing there?

A. Yes, sir.

Q. What was the percentage used there?

A. Same percentage, used the same percentage here for all funds, whether temporary or funds out on demand notes or whether it was money invested in property used in the license contract.

Q. Do the licensee companies ever borrow from local banks?

A. Very infrequently. There may be occasional instances where they borrow small sums, but as a rule not.

Q. When they borrow from the American Company, what rate of interest do they pay?

A. 6 per cent less 2 per cent for prompt payment of interest, which brings down the rate to 5.88.

Q. You mean 6 per cent less 2 per cent of the interest accrued?

A. Yes.

[fol. 5939] Q. For prompt payment?

A. For prompt payment of money.

Q. Now, do you mean that over all these periods of time the American Company has had to pay somewhere between six and seven per cent to keep temporary funds?

A. Yes, sir.

Q. Or that the Associated Companies couldn't have borrowed money from their local banks at less than 6 per cent?

A. The Associated Companies could not have done a better job than the American Company did.

Q. I ask you this question, for temporary funds, an associated Company wants to borrow some money in that classification——

A. And I will answer you this question, that it is one thing for a local company to go to a bank and borrow $500,000.00 for three weeks or three months, and it is another thing for a local company to go and borrow ten million or five million dollars with no intention of repaying it. The two are not comparable at all. You can't test the cost of funds by what you can borrow money at a local bank for a short period of time.

Q. But they are paying one and one-half per cent of their gross receipts for a service to borrow money from you at six per cent, which, when it is worked out here, totals up almost 7 per cent?

A. They are paying one and one-half per cent of their total receipts for a great many services and they are paying the American Company 5.88 for the money they get with no obligation to repay it in cash within any time.

Q. Maybe I am misinformed about this. What do you treat as temporary financing, when does it fall out of that classification into the one just above?

A. The classification "Cost incurred in holding funds available during year to meet cash requirements of licensee companies" represents money that we hold in New York [fol. 5940] available to be drawn by the companies. That money is not out. "Net cost of temporary financing" is money which is advanced on demand notes to the companies on a 5.88 basis and that money is in some cases out one year, two years, three years, until it is changed into permanent financing of some type or other.

Mr. Burr: The Ohio Bell Companies have had millions of dollars of that sort of borrowing, as shown by the records of this Commission, and has now.

Q. But you charge the same percentage on your temporary funds that you do on your long term financing, don't you, the cost of those funds?

A. I assume that the cost of every dollar we have in the American Company, either in property, held available or out of Associate Companies, costs the American Company the same amount. In 1926, 6.83; in 1930, 6.25.

Q. Are the non-telephone activities of the company included in determining this cost of funds?

A. No, sir.

Q. How do you separate it?

A. We have arbitrarily excluded the non-telephone activities and have gone down through every item meticulously and have excluded a pro rata part.

Q. A judgment figure?

A. On a judgment figure, and I want to say further, in figuring this cost of money, I have given advantage to all of the surplus that the American Company has included in the entire history of its business, I have thrown the money in as costing nothing.

Q. If you had paid a 25 per cent dividend that would have increased your cost of money for that year, wouldn't it?

A. It would have increased it, but that is not our policy.

Q. I am just citing it. Your dividends tend to show what [fol. 5941] your cost of money is.

A. Mr. Herbert, this is based on the proposition that our dividend is a uniform, fixed dividend gauged by what is necessary to keep money in the business and to draw money to the business, no more, no less, in the judgment of our management.

Q. That isn't the question I ask you. I ask you if your dividends had been high in any one year, it would have tended to increase the cost of funds for that year?

A. But I wouldn't consider that an unreasonable dividend should——

Q. Do you consider it unreasonable to ask for a yes or no answer to that question?

A. I would say that a 25 per cent dividend would not have been used as a measure of cost of money.

Q. Then you would consider my request for a yes or no answer unreasonable?

A. I didn't say that.

Q. I know you haven't, but I am asking you to either answer it yes or no or say that you can't.

A. I am simply saying that I wouldn't have used the 25 per cent figure in measuring the cost.

Q. But you won't say if you had paid a 25 per cent dividend, it would have tended to increase the cost of funds on your basis?

A. If I had——

Commissioner Geiger: Gentlemen, I don't think we are getting anywhere on this. Did you ever declare a 25 per cent dividend?

The Witness: No.

Commissioner Geiger: Then why go into that?

Q. Let me put this question to you, if a company that did pay a 25 per cent dividend on one year computed the cost of [fol. 5942] its funds for that year on this method you have used, it would have a much higher cost of funds than you have here? Just please answer that yes or no.

A. Yes, but I wouldn't use that basis.

Q. If you had a 25 per cent dividend?

A. I wouldn't put a 25 dividend in as measuring cost of money.

Q. No, I didn't ask you that. Then if you had a year where there were no dividends available, then your cost of funds would drop down under your method, wouldn't they?

A. If I included only dividends paid, yes, but I wouldn't say that a year of no dividend, that we should consider that the money didn't cost us anything because we paid no dividend.

Q. Do I understand you use this 82 per cent and 16 per cent in computing all these direct costs and indirect costs for the comparable items in each column?

A. Substantially so. There are one or two cases where the equities of the situation demanded special computations.

Q. So that the license business is paying 98 per cent or is bearing a load of 98 per cent of all the cost of funds of the American Company?

A. 98 per cent less the adjustment I made for holding company activities.

Q. Yes, less the adjustment down at the bottom?

A. Yes.

By Commissioner Geiger:

Q. Now, there is just one question that has occurred to me over a number of years and maybe you can tell me, but I don't want you to be more than brief. It does appear to

those who observe things that the telephone companies have in late years been investing very large sums of money in telephone buildings in New York and Cleveland and other places, rather expensive buildings. Now, whose money is [fol. 5943] invested in that, is it the local company or is it the A. T. & T.?

A. The building in Cleveland is built with Ohio Bell money. The building in New York is the money of the American Company.

Q. Built by the local company?

A. Yes.

Q. Now, is there any favor shown to the A. T. & T. in renting space in those buildings or in using any portion of it?

A. Absolutely none. The American Company has to pay cost plus the proper loadings and more than that for all space it uses in local company buildings. We aim, at least, to keep the companies absolutely whole as to cost and return on any investment.

Q. And the class of buildings you build is the result of a fixed telephone policy throughout the Bell Companies or A. T. & T. Companies, or does each local concern build its own type of building?

A. Each local concern may determine its own style of building. We have a national architect, we have an architect who advises on that.

Q. I just wondered whether we had to put all that money in them?

A. Your Honor, here is the situation. Take a city line Columbus or Cleveland, the pressure is put on, every city wants to be just as fine as it can be, the pressure of your chambers of commerce and your civic organizations want these fine buildings. From the other side of the picture, the kind of a suit a man wears determines sometimes what kind of a man he is and the type of a building determines sometimes what kind of an institution you have.

Q. Well, the trouble is, the man owns the suit he wears.

A. But, Your Honor, I think if you took the little fine touches off of our buildings and put them up in plain style, [fol. 5944] the cost of the building would be very little different.

Q. Let me ask you this in a broad way, there is no real estate company, building company, construction company,

that is subsidiary to the American Telephone & Telegraph Company that is making anything on the side on building these buildings?

A. Absolutely not one cent.

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[fol. 5945] And also RANDOLPH EIDE, called on behalf of the Ohio Bell Telephone Company, being first duly sworn, testified as follows:

Examined by Mr. Thompson:

Q. You may state your name?

A. Randolph Eide.

Q. You are the president of the Ohio Bell Telephone Company?

A. I am.

Q. How long have you occupied that position?

A. Will be three years in April.

Q. Have you testified before in this case?

A. Yes.

Q. Do you have before you, Mr. Eide, a statement for the year 1931 which shows the property of the Ohio Bell Telephone Company divided as between its intra and interstate operations, the income statement for that year, the detail of the telephone operating revenues and expenses, gross additions, fixed capital, net additions and reserve for accrued depreciation?

A. Yes, I have.

Mr. Thompson: May I have the exhibit? That may be marked Eide Exhibit Number 3.

And thereupon the paper writing last above referred to was marked for the purpose of identification as Eide Exhibit Number 3.

Q. Mr. Eide, what does Eide Exhibit Number 3 give the rate of return which the Ohio Bell Telephone Company earned for the year 1931 upon its total property as related [fol. 5946] to its book costs?

A. 4.81 per cent.

Q. Now, what was the earning upon its intrastate property for the year 1931 as shown by this Exhibit Eide Number 3, relating that earning to the book cost of the intrastate property?

A. 4.82 per cent.

Q. Now, have you prepared a similar exhibit showing the same information for the entire company and also separated as between intrastate and interstate for the first ten months of 1932?

A. I have prepared a similar exhibit, but it is not separated as between inter and intrastate for the reason that we have not as yet completed that study.

Mr. Thompson: Let us have that identified as Eide Exhibit Number 4.

And thereupon the paper writing last above referred to was marked for the purposes of identification as Eide Exhibit Number 4.

Q. Mr. Eide, I wish you would turn to the first sheet of this Exhibit Number 4 and tell the Commission what earning has been made by the Ohio Bell Telephone Company in terms of per cent for the first ten months of 1932, relating that earning to the book cost of the Ohio Bell's entire property.

A. 4.17 per cent.

Q. Can you approximate the rate of return which would be shown on the book cost of the intrastate property for the ten months' period ending October 31, 1932?

A. I would say approximately 4.2.

Q. In other words, as shown on your prior exhibit, Eide [fol. 5947] Number 3, the earning on the interstate property is just a trifle lower than the earning on the intrastate property?

A. That is correct.

Q. What in your opinion will be the probable rate of return to the Ohio Bell Telephone Company on the intrastate property employed by that company in its business in the State of Ohio for the year 1933?

A. Approximately three and one-half per cent.

Q. What dividends have been paid or declared upon the stock of the Ohio Bell Telephone Company for the year 1932?

A. One and one-half per cent for the first quarter, one and one-fourth per cent for the second quarter, one per cent for the third quarter have been paid, and one per cent for the fourth quarter of 1932 has been declared, but as yet not been paid.

Q. What is the total amount of stock of the Ohio Bell Telephone Company outstanding, par value?

A. 130 million.

Q. How does that compare with the book cost of the property at this time?

A. The book cost exceeds the amount of stock by approximately forty-six million dollars.

Q. So at the present time you are paying dividends at the rate of four per cent per annum on a capital stock issue which is 46 million dollars less than the book cost of your property?

A. That is correct.

Q. What in your opinion is the prospect for the payment of dividends on the outstanding stock of the Ohio Bell for the year 1933?

A. It will probably be less than four per cent on an annual basis.

Q. And you are figuring that on the stock remaining the [fol. 5948] same for '33 as for '32?

A. That contemplates no change in the amount of stock outstanding.

Mr. Thompson: We offer in evidence Eide's Exhibits 3 and 4.

And thereupon the paper writings last above offered were introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and are herewith submitted, marked Eide Exhibits Numbers 3 and 4, respectively.

Cross-examination.

By Mr. Herbert:

Q. On what do you base your approximation of three and one-half per cent on the intrastate business on a book valuation for 1933?

A. On the basis of our best idea of what will happen during the year 1933 and relating such knowledge as we had and experience in the business up through the year 1932.

Q. What percentage of station loss do you anticipate to continue?

A. We look for some improvement in station loss, putting that on a percentage basis—I will have to do a little figuring.

Q. Well, I mean you have forecast for 1933, three and one-half per cent on the book value of property allocated to intrastate business; is that correct?

A. That is correct. That is based, if you will——

Q. I am asking you to give us some of the underlying reasons why you arrived at three and one-half per cent?

[fol. 5949] A. We looked for an improved loss in stations during the year 1933 somewhere in the neighborhood of from twenty-five to thirty thousand loss as compared with something over a hundred thousand during the year 1932.

Q. What factor do you think enters into a depreciated revenue in 1933?

A. Well, we have been losing stations every month this year, so that we start the year 1933 out with a considerably lesser number of stations than we started the year 1932, and that has also been true with respect to the long distance revenue which has been on a declining scale during the year 1932.

Q. This book value that you speak of, is that less than the depreciation reserve?

A. No, that is the total——

Q. That includes the depreciation?

A. Book cost of the property itself.

Q. Without deduction for depreciation?

A. Without any deductions for that. That is the cost of the property.

Q. I am trying to get at, if you anticipate increased revenues in '33——

A. No, we are anticipating about a ten per cent reduction in revenues for the year '33 as compared with the year '32.

Q. Well, then, you anticipate a further loss in station-?

A. That is right, about twenty-five to thirty thousand.

Q. When you say an improved rate of station loss, you mean not so many monthly?

A. Not so many as we have been losing by months this year. There has been some improvement indicated to date.

Q. When you testify to the amount of dividends paid on 1932 or declared, you didn't recite whether there was any [fol. 5950] addition to surplus left after the dividend was declared?

A. There will be some deduction from surplus in order to carry out that dividend program, a few thousand dollars,

it is rather slight. If we get a good break in December, why, we may be all right, if not, we may have to dip slightly into surplus.

Q. I don't want to get into a lengthy discussion on the intricacies of this financial situation, but will you explain how, if you make 4.2 per cent on your book value which you recite to be 46 million greater than your stock, that it requires drawing on surplus to meet a four per cent dividend on your stock?

A. Well, your book value of your property is 46 million dollars more than the amount represented by stock, which is 130 million compared with 176 million, so that if you earn, just roughly speaking, say you earn three and one-half or a little better on your book value, you will earn something more on a percentage basis on the lower amount which is represented by stock.

Mr. Thompson: Mr. Herbert, pardon me, but remember that for the first two periods, the dividend rate was one and one-half and then one and one-fourth, so that the earnings this year on the book cost of the property would have to be a little higher than four per cent in order to meet the dividends of this year.

Q. The dividends are four and three-fourths?

A. Four and three-fourths, yes.

Mr. Herbert: According to the testimony of the witness, and the earning for 1932 is computed at 4.17 per cent on this over-all.

[fol. 5951] Mr. Thompson: That is right.

The Witness: And the actual payment, including the fourth quarter, will be four and three-fourths per cent.

Mr. Herbert: That is all.

Mr. Thompson: That is all, Mr. Eide. Thank you.

Commissioner Geiger: Just a moment. Your exhibit Number 3, entitled "Ohio Bell Telephone Company property, net income and rate of return", now, as I understand, this is the total book cost as of June 30, 1931, that you have in Columns A and B and C?

The Witness: That is right.

Mr. Herbert: Without the depreciation factor deducted.

Commissioner Geiger: I was going to ask, there is no depreciation of that property in this item?

The Witness: That is the book cost of the property.

Commissioner Geiger: Well, book cost from what time?

The Witness: From the time it was installed.

Commissioner Geiger: Well, where is the item that we found of 104 million reflected in this 177 million?

Mr. Herbert: That is 1925.

The Witness: That item of 104 million was as of June 30, 1925.

Commissioner Geiger: Have these book costs been added to our one hundred four million or have our one hundred four million finding been disregarded entirely?

The Witness: Your one hundred and four million finding, it so happens, was approximately the book cost of the property as of June 30, 1925. And this particular figure here of 177 million odd represents the net additions to the [fol. 5952] property from June 30, 1925, to June 30, 1931.

Commissioner Geiger: Well, that is to your book value of your property?

The Witness: That is to our book value.

Commissioner Geiger: As it stood in 1925?

The Witness: That is right, and it so happens that those two values were approximately the same; there was some slight difference, I haven't it definitely in mind, but they were both one hundred four million some odd, as I recall it.

Commissioner Geiger: So I understand, so far as this sheet is concerned, the labor of the commission for seven or eight years to determine the value of your property as one hundred and four million as of 1925 is not reflected at all except by the coincidence that it was practically the same as your book value?

The Witness: Well, I am attempting to show here what the books show as taken from the books and not any particular relation as to what someone else may have done or what the commission may have found.

Commissioner Geiger: I just want to know what our labors amounted to if you are going to take the book value. Why didn't you take the book value in the beginning and leave out the seven or eight years of engineering estimate as to that the values were?

Mr. Thompson: Of course, we are required, Your Honor, to record on our books under the rules of this commission and the Interstate Commerce Commission, our property at its actual cost, and what Mr. Eide has done in this exhibit

is to show the book cost of our property as of June 30, 1931. [fol. 5953] Now, as a matter of fact, it happens that if you will take the commission's finding of value as of June 30, 1925, and add to that the net additions that have accrued since that time, you would find a figure that was relatively close to these book costs.

Commissioner Geiger: I see. In other words, it goes back to the proposition that the Commission in finding the value of the property as of 1925, found it, by coincidence, substantially at book cost?

Mr. Thompson: Substantially at book cost.

Mr. Herbert: Your Honor will recall the company proffered as a solution of the valuation side of this case the adoption of book cost in its brief filed in 1930.

Mr. Thompson: I guess that is all, Mr. Eide, unless the commission has some further questions.

Commissioner Geiger: Well now, would the per cent that you have here as to the income of your company for 1931, estimated for 1932, be varied if you gave any considerations to depreciation to the value shown by your book cost?

The Witness: Of course, if you changed your base and the earnings remained the same, why, you are bound to have a variation.

Commissioner Geiger: The only thing I was trying to get at, the only thing that would be of value to us would be percentage of dividends to property used and useful, its present value.

The Witness: Well, it has this value, I would say, it has the value of indicating what the company is earning on the actual dollars that the company has invested in the [fol. 5954] business.

Commissioner Geiger: All right.

The Witness: Just one thing I would like to just correct the judge, the '32 figures are not estimated, they are the actual performance for ten months.

Commissioner Geiger: I see.

Mr. Herbert: Are they projected for the two months?

The Witness: No, they are just on the ten months' basis, no projection for the other two.

Mr. Herbert: Oh, just a ten months' summary?

The Witness: Yes, sir.

* * * * * * *

[fol. 5955] Thursday Morning Session

December 29, 1932.

And thereupon the further hearing of this cause was resumed, pursuant to adjournment, before Hons. F. W. Geiger and John W. Bricker, Public Utilities Commissioners.

Appearances:

Same parties present by their respective counsel as at previous session.

E. W. Wood, called on behalf of the State of Ohio, being first duly sworn, testified as follows:

Examined by Mr. Herbert:

Q. State your name, please?

A. E. W. Wood.

Q. And your business, Mr. Wood?

A. I am a certified public accountant. I live in Marion, Ohio. My office is there.

Q. How long have you been a certified public accountant?

A. I was certified in the State of Illinois, 1918; in the state of Ohio, 1919. I have been in business in Marion since 1921. Prior to that time I was engaged in accounting, largely public utility accounting; from 1907 to 1911, with the C. B. & Q. Railroad Company; from 1911 to 1914, the Chicago Telephone Company; 1914 to 1919, with the receiver of the Central Union Telephone Company; 1919 to '21, I was with Wolfe and Company, public accountants. Since 1921, I have been engaged in public accounting on my own account.

[fol. 5956] Q. You have been employed by the Commission as an accountant in the last few years?

A. I have been engaged on special cases by the commission since September, 1929; not continuously, but from time to time.

Q. Just enumerate some of those cases, will you?

A. Well, I have made examinations in a number of cases, rate cases and security issue cases. The first one I think was the Cambridge Telephone Company, a rate case. I worked on the Circleville Telephone Company, Warren Telephone Company, the Ohio Associated Telephone Companies, the Ohio Central group of companies. I have done work on this case before.

Q. By that you mean on this rate case or on security issues?

A. Both rate and security issues.

Q. All right. Have you been making an analysis of the books and records of the Ohio Bell Telephone Company covering the period 1921 to 1931?

A. That is right.

Q. I hand you a folder identified as Wood Exhibits and ask you to turn to Exhibit 1, consisting of two sheets, ask you to explain what that exhibit consists of?

A. This exhibit shows the balance sheets of the company as taken from its books, commencing with September 21, 1921, which was the date that the present company started operating. These balance sheets are shown for the end of each year up to and including December 31, 1931, with a balance sheet also at June 30, 1925, which is the date of the inventory and appraisal in this case. I have made reference to certain accounts in the foot notes on sheet 1 and sheet 2, which cover items which are more fully explained in later exhibits and which are condensed for the purpose of this balance sheet in Exhibit 1.

[fol. 5957] Q. As to the first column on each sheet, the numbers represent the accounts as prescribed by the Interstate Commerce Commission?

A. That is right.

Q. And the figures for each of these periods represent the figures as they appear on the books of the Ohio Bell Company?

A. Yes, sir.

Q. Turning to the page marked Wood Exhibit 2, will you explain that?

A. This exhibit is a condensed analysis of fixed capital account Number 101, shown on the first line of Exhibit 1, and reflects the changes in fixed capital for each of the periods as indicated; that is, the figures on Line 41 and 42 of Exhibit 2 correspond with the figures shown for account 101 on Exhibit Number 1. The changes in fixed capital reflected on Lines 1 to 40 are broken up into groups. The first group from Lines 1 to 10 show the gross additions. The second group from Line 11 to 20 show the plant displaced, and the third group from Line 21 to 30 show the transfers represented largely by purchases and sales of property and distribution of accounts. And the last group,

Lines 31 to 40, represent the net additions derived from the gross additions, plant displacement and transfers.

Q. And are these all book figures of the company?

A. Yes, they are book figures taken from their summary of accounts as shown on their monthly report Number 6.

Q. What do you include in the heading "Intangible Capital" on Line- 1, 11, 21 and 31?

A. That item includes accounts Numbers 201 to 204, as prescribed by the Interstate Commerce Commission. They in this case represent principally organization expenses, stamp taxes, cost of issuing of securities and so forth.

[fol. 5958] Q. What do you include under the heading "undistributed plant"?

A. That item represents the Interstate Commerce account 268 to 270. In this case, it is principally all interest during construction.

Q. That appears on Lines 8, 18, 28 and 38?

A. Yes. On Lines 8 and 18, the item is principally all interest during construction. On Line 28, the undistributed plant in the first three columns consists principally of purchased properties which have been distributed to final accounts.

Q. What is included under the heading, "General equipment," lines 9, 19, 29 and 39?

A. Accounts 261 to 265, prescribed by the Interstate Commerce Commission.

Q. Turning to Wood Exhibit 3, will you explain this exhibit?

A. This exhibit is a condensed analysis of changes in Other Surplus Reserved. This is Account No. 173 which appears on sheet 2 of Exhibit 1. The first five lines shows the changes in this account made by the company on its books and the sixth and seventh lines show the balances identified with Account 173 on the balance sheet. This account covers rate cases adjustments and shows the amount set aside by the company from time to time. The amounts show the specific fund which the company has set aside for rate case adjustments.

Q. Then Line 7 represents the amount shown on the books of the Company in this account 173?

A. That is right.

Q. Is that a special surplus or——

A. It is an appropriated surplus, as distinguished from unappropriated surplus. There are two surplus accounts.

Q. Then what is the lower portion of this Wood Ex-
[fol. 5959] hibit 3?

A. The lower part of this exhibit shows the amount of bonds posted by the company in this rate case, making a total of $14,166,768.49, and also the estimated amount of revenues collected under the rates now in force in excess of the former rates, in the total amount of $20,474,006.19. Details of these amounts by divisions and exchanges are located on Lines 21 to 69.

Q. What is the source of those figures?

A. The amount of these bonds I secured from the records of the Commission as kept by Mr. Welkner and Miss Carmichael.

Q. Where did you obtain those increased revenue figures?

A. Those were shown by the company's records and details attached to its revenue accounting journal entry No. 58, December 31, 1931.

Q. Turning to the page marked Wood Exhibit 4, will you explain this sheet?

A. This sheet analyzed the corporate surplus unappropriated in account No. 174, shown on Exhibit 1, Sheet 2. The first 32 lines of Exhibit 4 show the net change in this surplus for each period, and lines 33 and 34 show the balances at the beginning and end of each period, which corresponds with the balance sheet, Exhibit 1. This sheet represents the company's figures taken from the books of account, summarizing their entries. I have combined here the disposition of net income and changes in surplus in order to avoid, as far as possible, technicalities of accounting. The company shows an income statement which comes down to a net income figure, then shows disposition of annual net income for payment of dividends, appropriations for rate case adjustments, appropriations for provident fund and [fol. 5960] so forth. Similar appropriations are made from surplus from time to time. So in order to identify all of them, I have included with the surplus analysis, the appropriations of income. For example, on lines 13 and 14 in some periods, the appropriation was made out of income and in other periods, the appropriation is made out of surplus. Also on Lines 15 and 16, appropriations for the provident funds are sometimes made out of income, sometimes made out of surplus. The same condition existed in the appropriations for dividends on lines 17 and 18. It

has been my purpose in this exhibit to show such appropriations, regardless of the source from which the appropriations were made, all on one sheet.

Q. Line 33 represents the figures on the books of the Ohio Bell Telephone Company for account 174 then?

A. That is right.

Q. For the times indicated. Turning to Wood Exhibit 5, will you explain this sheet please?

A. This exhibit is a condensed summary of all operating and non-operating items of revenue and expense which enter into the determination of net income as shown by the books of the company and is carried forward to Line 1 of Exhibit 4.

Q. Line 38 of Exhibit 5 corresponds to Line 1 of Exhibit 4?

A. That is right.

Q. These figures represent the figures as they appear on the books of the company?

A. Yes, sir.

Q. Turning to Exhibit 6, will you explain that?

A. Exhibit 6 is a summary of telephone operating revenues, the totals of which are carried forward to Line 7 of Exhibit 5. This breaks the revenues down by accounts, [fol. 5961] whereas Exhibit 5 only shows the revenues by groups of accounts.

Q. Line 21 of Exhibit 6 corresponds to Line 7 of Exhibit 5?

A. Yes, sir.

Q. You haven't identified these accounts by number on this exhibit?

A. No, I have used Line Numbers. They are all revenue accounts in the five hundred series as prescribed by the Interstate Commerce Commission.

Q. Identified by the description?

A. Yes, sir.

Q. I will ask you to turn to page marked Wood Exhibit 7. Please explain that sheet.

A. Exhibit 7 shows the company's net calculation of license revenue debit, account Number 527, the total of which appears on Line 20 of Exhibit 6. The first sixteen lines show the figures that made up gross revenues on which the four and one-half per cent computation is based under the percentage—that percentage changes from year to year, it is the percentage in each period as shown on Line 17, upon

which that percentage is based, and the computations that follow that to produce the total in account 527.

Q. Percentage on line 17 indicates the percentage used between the companies for each of the periods indicated, is that right?

A. That is right.

Q. I notice in brackets at the top of each of these columns for the years that you use the period from November 1st to October 31st. What is the reason for that?

A. The reason for that is that the license contract payments as they are made monthly are based upon revenue calculations for the second month preceding.

Q. Now, I direct you to Line 8 which shows entries up to and including the year 1927. Will you explain that line?

[fol. 5962] A. That is a calculation based upon the stock of A. T. & T. instruments carried by the Ohio Bell Telephone Company, but not in service.

Q. How is that calculation made?

A. When this stock of instruments exceeds three per cent of the instruments in service, a theoretical revenue of 75 cents per month, which is not actually received, but is constructed and included with the other revenues upon which the calculation of four and one-half per cent is made.

Q. In other words, these amounts as they appear on Line 8, indicate this theoretically constructed figure of 75 cents per instrument per month in excess of three per cent of the instruments actually in use in the system?

A. Yes. The extent to which their stock of unused instruments exceeds three per cent of their instruments in use.

Q. But they don't represent dollars received by the Ohio Bell Telephone Company?

A. No.

Q. Now, these figures as you show them on Line 8 are made up from monthly totals?

A. Yes, sir.

Commissioner Geiger: Which are you referring to?

Mr. Herbert: Of Exhibit 7.

Q. Where it appeared that the company had less in stock than three per cent of the operated telephones was any credit given to the Ohio Bell in a proportional manner as this charge was made for the use?

A. No, there was no credit given in any amounts. Of course, this method of payment is provided for in the license contract between the two companies and I am simply showing the effect of how it works.

Q. Well, will you show by one example?

[fol. 5963] A. Well, for example, in 1923 the amount of $655.50 is the computation based on 874 instruments.

Commissioner Geiger: What line are you referring to?

The Witness: Line 8. The year 1923. Those were excesses during certain months during 1923. During the other months there were less than three per cent on hand of these instruments and the aggregate sum total of those amounts would amount to 51,689 instruments. No computation is provided for in the contract, as I understand it, for those items.

Q. Will you explain Lines 9, 10, 11 and 12, the entries appearing for the years '29 to '31?

A. These items give effect to revenues of sub-license or controlled companies which are subject to the same calculations as to revenue as the Ohio Bell Telephone Company and on which the Ohio Bell pays a license fee to the A. T. & T.

Q. Well, are these revenues as shown on Lines 9, 10, 11 and 12 actually received by the Ohio Bell Company?

A. No, they are not received by the Ohio Bell Company, but a computation of license fees based on these revenues are included in the license fee that the Ohio Bell pays to the A. T. & T. There are two companies there, the Tiffin Consolidated Telephone Company and the Home Telephone Company of Ironton from whom the Ohio Bell Company did collect license revenues for part of this period, and this in effect passes on what they collect to the A. T. & T., being based on the same gross revenues.

Mr. Thompson: Mr. Herbert, may I interrupt there for just a minute? Are these companies that you referred to in Lines 9 to 14 on this exhibit Number 7 companies which [fol. 5964] are controlled by the Ohio Bell?

The Witness: Yes, sir.

Q. I think some of them have since gone into the company?

A. Yes.

Q. On Line 13 for the year 1921——

A. When the Ohio Bell bought the Ohio properties of the Chesapeake & Potomac Telephone Company it reimbursed that company for what it had paid the A. T. & T. on the two months' revenues prior to this purchase, and this is the gross revenues for those two months upon which was based the reimbursement, four and one-half per cent reimbursement to the Chesapeake &.Potomac for what they had paid to the A. T. & T.

Q. Now, will you explain Line 14?

A. Well, Line 14——

Q. Entry for 1930?

A. Yes, covering the Home Telephone Company of Ironton, is an adjustment made necessary by the fact that the Ohio Bell Company purchased the Home Telephone Company and had to go back two months to figure the license payments that were due on the revenues from that particular company to the A. T. & T.

Q. Lines 9 to 14——

A. Line 15 is the same as Line 14 except it pertains to the Tiffin Consolidated Company.

Q. I say Lines 9 to 15 then represent calculated earnings by these other companies, in some cases the company making a wash transaction, reimbursing them for license payments they had already made, and in other cases the Ohio Company having received the license fee payment from the sublicensee?

A. Yes, sir.

Q. Is that a correct explanation of those six lines?

A. Yes, substantially. We might associate with that lines [fol. 5965] 21 and 22, which also cover a method of account for sub-license revenues. There were several methods in effect during this ten year period. I believe Lines 21 and 22 has more direct reference to the reimbursement of license revenues collected from the sub-license company and then paid to the A. T. & T. That covers 75 per cent of the service contract payments to the Ohio Bell by its sub-license companies. But Lines 9 to 15 and Lines 21 and 22 all pertain to adjustments and computations affecting sub-license, controlled or purchased companies.

Q. Well, do Lines 9 to 15 include any situations where a sub-licensee paid the Ohio Bell and the Ohio Bell in turn paid the A. T. & T.?

A. No, I think those situations are covered by Lines 21 and 22.

Q. Now, will you explain Line 19?

A. Due to the fact that there are a number of non-Bell instruments in service by the Ohio Bell Company, allowance was made of a dollar per station per annum against that type of instrument by the A. T. & T. in the computation of this license revenue. In purchasing some of the properties, the Ohio Bell acquired non-Bell instruments and this line gives effect to an adjustment in respect to those non-Bell instruments.

Q. The company did not exclude the revenues, that is, the A. T. & T. Company did not exclude the revenues of the Ohio Bell Company on an allocated basis with relation to those non-Bell instruments?

A. No. It included all revenues from all instruments.

Q. It included all revenues and then made a flat reduction of a dollar per station per annum for each non-Bell instru-
[fol. 5966] ment shown on the company's books?

A. That is right.

Q. Line 23 represents the amount actually paid by the Ohio Bell to the A. T. & T. for the periods indicated?

A. Yes, sir, except in that first period, part of that payment was made to the Chesapeake & Potomac. They had previously made it to the A. T. & T.

Q. You have got that taken care of by a note at the bottom?

A. Yes, that is the four and one-half per cent on that $185,674.43 and amounts to $8,355.35.

Q. That last amount that you stated is included in the 881,000 figure?

A. That is right.

Q. But it was paid to the Chesapeake & Potomac rather than to the A. T. & T.?

A. Yes. That is the way I understand it.

Q. Now, turn to Wood Exhibit 8. Will you explain this page?

A. This exhibit shows the details by accounts of telephone operating expenses in each period, the totals of which are shown on Line 20 of Exhibit 5. They are all taken from the books and records of the company and agree therewith.

Q. Turn to Wood Exhibit 9. Will you explain that sheet?

A. I was asked to separate from the company's books into classified form the Western Electric purchases. This exhibit shows the results of my computations in arriving at

the distribution of Western Electric bills and credits insofar as they were reflected by plant department entries. This exhibit was prepared from the books and records of the Ohio Bell Telephone Company without reference to the books of the Western Electric Company.

The first five lines set up the purchases in total as shown [fol. 5967] by the Ohio Bell Company's books for items recorded on plant department entries as reflected in Account Number 714. Lines 6 to 27 show the results of my classification of these purchases to final accounts. I have added a sheet identified as Wood Exhibit 9-A, which summarizes the computations made in arriving at the figures for the year 1928 as an example of the methods used in arriving at these results.

Q. Now, turning to 9-A, will you give us an explanation of this page? Did you take 1928 for any particular reason?

A. Yes, it was one of the years in which account Number 718, engineering department charges, was involved and seemed to be a representative year covering practically all the factors that entered into the whole period.

Q. All right.

A. I believe it would be easier to follow an explanation if we would number these columns at the top. There are twenty-one of them if you care to mark your copy.

Q. Numbering the column at the extreme left entitled "Description" column Number 1 and the rest of them right across numerically.

Mr. Thompson: Will your heading number and description have a column number?

The Witness: One column for both.

Mr. Thompson: Number 6?

The Witness: That is right.

Q. Now, you start with everything in account Number 714 on the Ohio Bell Company's books, do you not?

A. All items recorded on Plant Department entries.

Q. I see.

A. Making up a sum total of $9,902,666.57.

Q. That represents all the net payments by the Ohio Bell [fol. 5968] to Western on plant department entries for the year 1928?

A. Yes, sir.

Q. Now, will you carry your explanation on from there?

A. I first analyzed total amount in the manner shown in Columns 2 to 5 in order to separate the nature of the transactions passing through this account. I found that of the total, $2,002,785.31 represent engineering department charges from Western Electric bills recorded in Account 718.

Q. You show in red under column 2 and black under column 3?

A. That is right. And I found there was $478,394.79 representing charges for special services from Western Electric bills which passed through account Number 719, so I have shown that amount in red under column 2, and in black under Column 4.

Then I found there were amounts representing purchases of material and supplies, $5,763,801.13 in account Number 714, which I have shown in red in the first column; $169,444.51 in account Number 718, which I have shown in red in the third column; and $2,632.55 from account 719, which I have shown in red in the fourth column. The total of these three red figures I have shown in black under account Number 122 in the fifth column. In totalling columns 2, 3, 4 and 5, I have shown the net amount originating in each of these accounts and these are the amounts which are carried forward to Exhibit 9, Lines 1, 2, 3 and 4.

Commissioner Bricker: What explanation, Mr. Wood, have you of the fact that account Number 718, engineering department charges appears only for the years 1928 and '29 in Exhibit 9; why were there no charges——

[fol. 5969] The Witness: I believe those are years when there was a great deal of activity in the construction department and they called on the Western for special services in the line of engineering work.

Commissioner Bricker: And the other years that was done presumably by the local company force?

The Witness: Yes, sir. There might have been some engineering charges in other years that were not separately designated as such, but were included in 714, which I have not separated out due to the fact that account 718 was not used in those years.

Commissioner Bricker: The same explanation for Account 719, I presume, which does not appear in all the years?

The Witness: Yes, sir, that is right. During this period

there was some changes in the accounting methods and procedures and the manner in which these items were recorded, and I have had to follow the accounts that were in use in the respective years.

Having thus separated the originating amounts, I have proceeded to distribute those amounts to final accounts, taking them up first, the amount of Account 714——

Commissioner Bricker: Just one minute, Mr. Wood. May I ask this question of Mr. Thompson, was there any change in your relationship with the Western Electric for engineering services or otherwise as for those years, or is it just an accounting method?

Mr. Thompson: I think it is thoroughly a change in account practices, that is my impression, and I think Mr. Wood would be very likely to agree with that.

[fol. 5970] The Witness: I think that is right, although I think there were certain years you called on them more heavily for engineering services.

Mr. Thompson: Oh, I have no doubt that is true.

The Witness: But I believe it is largely the result of difference in methods of recording the items. I have followed the company's method.

Mr. Herbert: According to that, then, the company came back to its previous accounting practices after 1928 with relation to account 718.

Q. Now, you carried these four totals as they appear at the bottom of Columns 2, 3, 4 and 5 over on the right hand side of your sheet 9-A?

A. That is right.

Q. Now, will you show how you carry them through to the final accounts? Will you explain what you mean when you refer to final accounts and by these other accounts, Mr. Wood?

A. Final accounts are just as the term indicates, the last account in which the charge rests. In order to get these amounts into final accounts, they pass through clearing accounts, suspense accounts and various other accounting situations and routines before they finally are charged to the last and final account where they remain.

Q. And your problem was to start with $9,902,000.00 and pass it through to some final accounts?

A. That is right. The final accounts are indicated in Columns 13 to 21. And wherever there was direct charges

to those accounts, I have shown them opposite the originating account. For example, from account 714, I found direct charges to final accounts in the amount shown on Line 1. And I found charges to clearing and other ac- [fol. 5971] counts indicated in Column 7 in the amount of $416,603.26. So that the total of Column 7 plus the amounts opposite Number 714 in Columbus 14, 15, 16, 17 and 18, represent the distribution of the total of Column 2, $1,657,-685.34. The same process was gone through in respect to accounts 718, 719 and 122.

Q. Let me interrupt. If you take the total at the bottom of Column 8 and the total of the second line commencing with Column 14 on across, you get the total appearing at the bottom of Column 3?

A. That is right.

Q. And the same process was done in working out Account Number 719 and account Number 122?

A. Yes, sir. At that point the amounts shown in Columns 7, 8, 9 and 10, while being distributed to clearing accounts, clearing and miscellaneous accounts, were not yet finally distributed to the final accounts.

Q. In other words, you mean while amounts stood in those four columns, 7 to 10, they were redistributed to the account numbers as they are described in Column 6?

A. They weren't redistributed. I found them to be in those accounts in my first analysis of the originating amounts, that is when I put this $416,603.26 in column 7, I at that time knew that it was distributed in the manner shown by the accounts in Column 6. But the accounts in Column 6, all of those in the 700 series are not final accounts, they require further treatment to get the amounts into final accounts. In other words, this section here, Columns 7 to 12, is rather a wheel within a wheel, we have to go through this secondary clearance in order to get the amounts to the final accounts.

[fol. 5972] Q. And that is particularly applicable to Column 11?

A. Yes. Column 11 shows the clearances of amounts from one clearing account to another clearing account before they are finally cleared to the final accounts, and the explanation of Column 11 is shown at the foot of the page where the total of $76,834.88 is analyzed as to what clearing accounts the transfers are made from and what clear-

ing accounts the transfers are made to. It was necessary then to summarize the basis of clearing each one of these clearing accounts, and using such basis I have allocated the total for each clearing account separately to the final accounts in Columns 14 to 21. The manner in which those clear out here can be traced mathematically in this manner; in Column 12 for account 712, appears a red figure of $31,672.19; that figure represents the total of the amounts on that same line appearing in Columns 14, 15, 16, 17 and 18, plus the total of account 702 at the bottom of the sheet in the amount of $5,008.68. That same explanation would apply to each one of the clearing accounts in the 700 series of numbers. The net result is that the totals of Columns 7 to 12 exactly offset and amount to zero. That the totals of Columns 13 to 21 are equivalent to the totals of Columns 2 to 5, inclusive, Columns 2 to 5 representing the originating entries and Columns 13 to 21 representing the final accounts.

Q. Now, at the bottom of Column 6 is the statement "Total construction work in progress, 102.57 per cent to fixed capital." Will you explain the significance of that?

A. In allocating these amounts to final accounts, certain amounts were charged to construction work in progress [fol. 5973] as shown in Column 14 and that was as far as I could go in my allocation from the information available in respect to these originating accounts. However, construction work in progress is not the real, final account, as all charges that go into construction work in progress come out again and are charged to fixed capital accounts upon the completion of the construction work. In order to give effect to that situation, I summarized the debits and credits to Account Number 104, which is construction work in progress, and I ascertained the percentage year by year of the completed work coming out of Account 104 to the gross charges going into Account 104. Some years I found that they completed more work than they started, other years I found they started more work than they completed. For this year, I found that the completed work that was transferred to construction accounts amounted to $12,260,803.90, whereas the charges going into accounts 104 amounted to $11,953,537.64, and the percentage relationship was 102.57. I therefore applied this percentage to the figures in Column 14, which represent construction work charged to account

104, in order to arrive at the figure which would represent completed construction transferred from account 104 to fixed capital and I have shown that transfer as between Columns 14 and 15 in the amount of $5,246,714.36.

Q. Will you just give us some examples of those percentages for other years? Have you those handy?

A. In the year preceding this, the year 1927, the percentage was 167.47. The year following, that is the year 1929, the percentage was 78.34. The manner in which this fluctuates is quite apparent from the figures shown on Exhibit 9 [fol. 5974] on Line 9. The years in which those figures are read, there was more work completed than was charged to Account 104. In the years in which they are black, there was more charges to account 104 than there were credits.

Q. Now, will you explain your method of treatment of account 122 as to Western Electric transfers to final accounts. A. Treatment of Account 122 is quite similar to that for Account 104, that is, I was only able to trace the charges for material and supplies purchased from Western Electric to the point where they were charged to Account 122 and could not identify the particular items that were credited to account 122 and later charged to final accounts. So I made the allocation on a percentage basis whereby I determined the percentage of Western Electric purchases to total purchases for each year and then applied that percentage to the total material used, thereby arriving at a proportionate amount to represent Western Electric material used, which corresponded to the same percentage of the proportionate amount of Western Electric material purchased. There were one or two instances where I deviated slightly from that, particularly in respect to account 702. In making that clearance, I found that the final accounts were charged with larger amounts representing items which manifestly were not purchased from Western Electric, such as gasoline and oil and repairs and things of that kind, and to follow the percentage method there would, without question, give an erroneous result, so in that case I used the actual material purchased from Western during each year as being the amount of Western material disbursed. The entire workout involves a great [fol. 5975] deal of detailed compilation and analysis and I have arrived at my results on the basis of taking one year as a unit and——

Q. You have worked that out for each of the years as indicated on Exhibit 9?

A. Yes, sir, 9 and 9-A.

Q. I mean you worked out for each of the other years the same way you show on 9-A?

A. You are right.

Q. The figures as they appear on Exhibit 9?

A. You are right. But the point that I want to make is that it would be hard to tell where to stop in a computation of this kind if absolute accuracy and minute accuracy were achieved. For example, where I use a year for a unit, I would have no doubt obtained more accurate results had I taken each of the twelve months in the year and combined the twelve answers, and another step, instead of taking the company as a whole, had I taken each of the four districts I would possibly have gone down further into exchanges in some instances, and where I have taken clearing accounts in total had I cleared each of the sub-accounts of those clearing accounts and combined the twelve answers, and had I searched through and dug out the specific cases where direct clearances might have been made rather than on a percentage basis, I would have probably achieved greater accuracy. But I have attempted here to give a close approximation of the distribution of Western Electric purchases and insofar as the totals are concerned, they tie up exactly with the amounts shown by the company's books, but four or five hundred times more work could probably be spent on the same job with I doubt a sufficient difference in the result to warrant the effort.

Commissioner Bricker: You would have been working [fol. 5976] on it about ten years?

The Witness: Yes, sir.

Q. Now. Mr. Wood, do the totals as they appear under columns 14 to 21 of 9-A, are they carried over to Exhibit 9?

A. Yes, those totals are carried forward on Exhibit 9 in Lines 6 to 26, and the total of those amounts is shown on Line 27 and agree in amount with the total shown on Line 5.

Q. Now, will you turn to Exhibit 9-B and explain what that is?

A. There has already been introduced in this case evidence from the Western Electric Company contained in

Gregory Exhibit Number 7 which shows the amount of sales by the Western Electric Company to the Ohio Bell Telephone Company, and in making my analysis of purchases by the Ohio Bell Company from the Western Electric Company I was unable to arrive at exactly the same amounts as were shown in Gregory Exhibit 7, and this 9-B is intended to show a reconciliation of figures here and to bring out the difference between my analysis and the other evidence. I have shown here under purchases from Western Electric Company through plant department entries per my exhibit 9——

Q. As compared to the figures shown in Gregory Exhibit 7?

A. Well, not yet.

Q. Western Electric sales?

A. Not yet.

Q. Go ahead?

A. There were also other purchases from the Western Electric Company recorded on traffic, commercial, revenue and disbursement department entries which I did not analyze for the reason that there was a great deal of work involved and it would take a considerable length of time to sift all the amounts down to their last accounts and it [fol. 5977] seemed apparent from the nature of the entries on which the items originated that fixed capital accounts could hardly be affected and that most of the charges would constitute departmental operating expenses. The amounts on those entries are shown here in the third column of figures on Exhibit 9-B.

Q. I am going to ask you to mark the Exhibit, mark the column, "Western Electric sales to Ohio Bell per Gregory Exhibit Number 7," as Column 1 and then each of the columns numerically.

A. That makes six columns. By adding column 2 and column 3 you produce the figures shown in Column 4.

Q. Where did you get the figures in Column 2 and Column 3?

Commissioner Geiger: You are speaking now of Exhibit 9 or——

Mr. Herbert: 9-B.

A. I got these figures from the company's books, from an analysis of their account 714, and the amounts in column 2 have been explained in my explanation of Ex-

hibits 9 and 9-A, and the amounts in Column 3 are those additional amounts which I have just explained that I did not go into minute details about, they are of relatively small amount.

Q. Are they contained in Account 714?

A. Yes. So we have in Column 4, the total net purchases from the Western Electric Company as shown by the books of the Ohio Bell Telephone Company and these purchases compared with column 1, which shows the Western Electric sales to the Ohio Bell Telephone Company, develops differences. These differences are set forth in Columns 5 and 6. Now, the inference is not intended that these are errors. They probably could be reconciled if the books [fol. 5978] of the Western Electric and the books of the Ohio Bell were examined and compared.

Q. This simply identifies the differences between your totals and those as they appear in Gregory Exhibit Number 7?

A. That is right. There are probably differences in accounting methods between the two companies. I assume that part of this difference in Column 5 may be due to the treatment of Class C stock which, if treated by the Western as a purchase, would not have been reflected in their sale figures shown in Column 1. However, I have treated them as a deduction from a purchase in Column 4 and that in itself would largely account for the differences in Column 5. There are no doubt hundreds of other little items that were differently treated on the two sets of books. But it is shown here to indicate the extent to which the analysis which I have made correspond- with the figures already in evidence.

Q. Now, turn to the page marked Wood Exhibit 10. I will ask you to explain that?

A. This exhibit was prepared from administrative reports and not from the books of the Western Electric Company. It shows the net changes and balance at the end of each period in Class C stock carried by the Western Electric Company for the Ohio Bell Company. An analysis of the balance at July 31, 1932, is shown at the bottom of the exhibit, making a total of 1,825,588 and indicating the usual classes of equipment carried in this stock.

Q. This shows some of the differences which might be the reason for the differences between your Column 4 and Column 1 on Exhibit 9-B?

A. I think that that might enter into that difference, yes. The amounts don't correspond, but it all depends on the [fol. 5979] treatment of the items on the Western Electric books as compared to the treatment of the items on the Ohio Bell books.

Q. In your preparation of these particular exhibits, 9, 9-A, 9-B and 10, you were working with Mr. Rickey of the Telephone Company?

A. I was working in his office. He was supplying me with such data as I called for and furnishing me such assistance as I needed and helped me materially in getting the figures that I here present.

Q. I mean you indicated to him your process at the time?

A. Yes, we discussed the matter. I made known to him what I wanted and what I wanted it for. He didn't in any way assume any responsibility for the interpretations.

Q. No, I didn't mean to put that into the question. I merely mean that you were showing him what you were doing while you were preparing those particular exhibits?

A. Yes, sir.

Q. Will you explain in connection with Exhibit 10 what is meant by Class C stock?

A. Class C stock is, in general, items of the nature listed at the bottom of this exhibit, which items have been recovered through the displacement of plant and stocked with the Western Electric Company pending the time when they will be re-used by the Ohio Bell Company. During that time repairs are made, as necessary, by the Western Electric Company upon order of the telephone company and the expense of these repairs is billed to the Ohio Bell and charged generally to their maintenance expenses. The transaction amount- virtually to a purchase by the Western Electric Company of these items and a re-purchase by the Ohio Bell Company at the time they are re-acquired and [fol. 5980] used for construction purposes, maintenance purposes, whatever they may be for.

Q. Excepting that the repair charge is paid by the Ohio Bell?

A. That is right.

Mr. Thompson: Mr. Herbert, could I ask one question there?

Mr. Herbert: Certainly.

Mr. Thompson: On your Exhibit Number 10, Mr. Wood,

where you show the balance at the end of the period of this investment in Class C stock, take for example the sum of $1,825,588.00, now that is property which did belong to the Ohio Bell and has been turned over to the Western under the circumstances you indicated and is not included in the fixed capital or asset accounts of the Ohio Bell appearing in your other exhibits?

The Witness: No. I believe there is a—I don't know how direct the liability is, but there is at least a contingent liability on the part of Ohio Bell to re-purchase this material from the Western at some time.

Mr. Thompson: Right. But the point I am getting at is that the accounts that you have included on this Wood Exhibit Number 10 as to the amount of this Class C stock which ultimately the Ohio Bell will re-purchase from the Western do not enter into any of the fixed capital or asset accounts of the Ohio Bell as shown in your other exhibit?

The Witness: That is right.

Q. Now, turning to sheet marked Wood Exhibit 11, will you explain that?

A. This exhibit is an analysis of the changes in the reserve for depreciation, account Number 102, the totals of which correspond with this amount in the balance sheet, on [fol. 5981] Sheet 2 of Exhibit 1. The first six lines show credits to the reserve which are charged to expense accounts of the Ohio Bell Company. Lines 7 to 17 show the amounts of reserves acquired in connection with property purchased. Lines 18 and 19 are sundry credit adjustments, and Line 20 shows the total credits from all sources to the reserve for depreciation.

Q. I note at the top of the page the phrase, "Changes in reserve for accrued depreciation." How did you——

A. That is the terminology used by the Interstate Commerce Commission in their uniform system of accounts, refers to Account Number 102. Now, in Lines 21 to 26 are shown the charges against this reserve classified as to their nature. Lines 27 to 29 show credits for salvage and plant sold which are deducted from the total charges to produce the net charges as they appear on Line 30. Lines 31 to 32 show sundry adjustments of debit to the reserve, and Line 33 shows the total debits. These debits subtracted from the credits on Line 20 produce the net increase or decrease shown on Line 34. Lines 35 and 36 show the bal-

ance at the beginning and end of each period corresponding with account Number 102 in the balance sheet.

Q. In other words, all these figures are taken from the company's books as of the periods indicated?

A. That is right. It is a condensed statement from the books, not in all of the details.

Q. Now, turn to Wood Exhibit 12. Explain this page.

A. This exhibit is prepared to show the percentage relationship of current maintenance, depreciation expense and net charges to the reserve for depreciation to the average [fol. 5982] depreciable plant in service. The first column shows the book cost of depreciable plant. The second column shows the average of such book cost for each period. The third and fourth columns, showing current maintenance and estimated depreciation and expense, are figures taken from Lines 10 and 11 of Exhibit 8. The fifth column represents net charges to the reserve for depreciation and are a portion of the total shown on Line 30 of Exhibit 11. They are that portion which pertain to telephone plant and equipment plus office furniture and fixtures, but excluding other general equipment items, namely, accounts 262 to 265. The portions that apply to accounts 262 to 265 are shown on my Exhibit 13, sheets 1, 2 and 3. So that in order to reconcile the net charges to reserve for depreciation as shown on Line 30 of Exhibit 11, it would be necessary to combine the columns headed "net charges to reserve for depreciation," shown on Exhibit 12, 13 sheet 1, 13 sheet 2, and 13 sheet 3. The three percentage columns at the right of this sheet——

Commissioner Geiger: Which sheet, 12?

The Witness: I am back to 12 again, yes.

Q. Let's stop a minute. Will you just mark those columns 1 to 8 across?

A. The last three columns Number- 6, 7 and 8 represent the percentage relationship of Columns 3, 4 and 5, respectively, to the average depreciable property shown in Column 2. All of these percentages are computed on an annual basis.

And thereupon a recess was taken until 1:30 o'clock P. M. of the same day, Thursday, December 29, 1932.

[fol. 5983] Thursday Afternoon Session

December 29, 1932.

E. W. Wood, resuming the stand, continued his testimony as follows:

Examined by Mr. Herbert:

Q. Will you turn to the page marked Wood Exhibit 13 and explain that?

A. Exhibit 13 is similar to Exhibit 12 except that it pertains solely to items of general equipment which are not included in Exhibit 12. Sheet 1 of Exhibit 13 relates to account Number 263, general store equipment. Sheet 2 relates to Account 264, general stable and garage equipment. And sheet 3 relates to account 265, general tools and implements. One difference is that these exhibits do not include the current maintenance item.

Q. You mean that is a difference between Exhibit 12 and Exhibit 13?

A. Yes, shown in Exhibit 12, but only refer to estimated depreciation expense and net charges to depreciation reserve.

Commissioner Geiger: Well, your two last columns relate to per cents?

The Witness: That is right.

Commissioner Geiger: And taking the first figure at the top, you have the figure opposite 9.79 per cent; then the opposite figure is .06 of one per cent?

The Witness: Yes, sir.

Commissioner Geiger: .06 of one per cent, not 6 per cent?

[fol. 5984] The Witness: .06 of one per cent.

Mr. Herbert: By that I think is meant, Your Honor, that 9.79 per cent of the book value of account 263 at that time was set aside in the depreciation reserve fund that year and there were charges against that fund that year of .06 of one per cent, is that correct?

The Witness: That is right.

Commissioner Geiger: That is net charges to reserve for depreciation.

The Witness: Those per cents relate to the amount in the preceding two columns. That is, there is $1,809.00 there that was set aside as estimated depreciation expense.

That amount is 9.79 per cent of the average investment of -18,479. During that same year there was $11.00 charged against the reserve for depreciation and that is .06 per cent of this same valuation figure of -18,479.

Commissioner Geiger: All right. Are you ready for Sheet 2?

Q. Why did you not include a study of current maintenance charges in connection with these three sheets of Exhibit 13 in the same manner that you did on Exhibit 12?

A. Because that current maintenance there might have been on these items is charged to clearing accounts and is not readily available and can not be identified in the operating expense accounts of the company as maintenance.

Q. That is for these three accounts, 263, '4 and '5?

A. Yes, sir.

Commissioner Geiger: How did you account for, if the book discloses, the difference in different years of the per [fol. 5985] cents that were charged for reserve for depreciation? They vary considerably. Is there any reason for that or does it just so happen?

The Witness: The charges to the reserve for depreciation represent displacements of fixed capital and in some years they would displace more and in some years they would displace less.

Commissioner Geiger: All right.

Q. Now, will you explain sheet marked Wood Exhibit 14?

A. This exhibit shows the depreciation rate for each class of property used by the telephone company in estimating the amount to set aside for each period for current depreciation. The periods are indicated at the tops of the various columns. This table was furnished to me by Mr. Rickey, the auditor, of disbursements.

Commissioner Geiger: Explain your item 33 on that page, will you please, undistributed construction expenditures; what do you mean by that?

The Witness: That term covers accounts 268 to 270 of the Uniform System of Accounts.

Commissioner Geiger: And that is uniform 20 per cent throughout the entire years?

The Witness: It does not include Account 268. It includes Account 270 which is undistributed construction expenditures, refers to engineering and supervision, law ex-

penditures during construction, taxes during construction, miscellaneous construction expenditures.

Mr. Herbert: Your Honor please, Mr. Rickey I believe is here and could perhaps answer that question more at length.

[fol. 5986] Commissioner Geiger: Well, we will take it up when it is necessary.

Is that all for 14?

The Witness: That is all.

Q. Now, turn to Wood Exhibit 15 and explain that?

A. The first fourteen lines of this exhibit represent an analysis of the reserve for amortization, account Number 103, and the totals on Lines 13 and 14 correspond with the amount of this account as shown on the balance sheet, Exhibit 1, Sheet 2. It is prepared similar in form to Exhibit Number 11, which refers to reserve for depreciation. Lines 15 to 27 represent a study of amortization in form similar to Exhibit Number 12, which is a study of depreciable property, on a book value basis. Lines 28 and 29 show the rates used by the company in setting aside estimated amortization of right of way for the periods indicated. There is one exception that I should call attention to in qualifying the statement that I have just made, and that is that from the years 1925 to 1931, the figures on Line 1 include amounts set aside for the amortization of leaseholds as well as for right of way.

Commissioner Geiger: Leaseholds?

The Witness: Leaseholds.

Commissioner Geiger: What do you mean by leaseholds, where the company has leased buildings of other companies or what?

The Witness: That is right, where they expended money for leaseholds and amortized the cost over the future period.

Mr. Thompson: In other words, where they have paid money to acquire a leasehold interest in addition to the rent?

The Witness: That is right.

[fol. 5987] Mr. Thompson: And it is that additional sum that has been amortized through this account?

The Witness: That is right. This account 103 covers amortization of landed capital. Landed capital is interpreted as including right of way and leaseholds.

Commissioner Geiger: But assuming, Mr. Wood, that these leaseholds which you have in your record here were

leases upon buildings that were no longer used and useful on account of a reconstructed building or more modern building, would it or would it not be proper to put this amortization in here or would it be counted as property not used and useful?

The Witness: It would be proper to provide for the amortization over the period of the lease, and at such times as the lease was given up or discontinued, why then the reserve would be charged with the amount remaining as the cost of that lease on the books of the company. The total amount of that leasehold element for the period from '25 to '31 is $32,272.16, and if that were eliminated from these percentage figures on Lines 15 to 27, the percentage in the next to the last column at the bottom, 4.17 per cent for the entire period, would be reduced by .23 of one per cent. It has a slight effect on the per cents that are here shown, approximately a quarter of a per cent.

Q. Well, this Exhibit 15 does not purport to represent your judgment in any way, does it, Mr. Wood?

A. No. This is taken right from the books and records of the company except that I have computed the percentages on the basis of book figures. They are not judgment percentages, they are the result of computation from book figures.

[fol. 5988] Q. That 32,000, I believe you mentioned, in round figures——

A. Yes, sir.

Q. Is spread over the years 1925 to 1931, inclusive?

A. Yes, sir. Do you want the amounts in each year?

Q. No, I just wanted to identify that as the total.

A. That is right. I can give you the amounts for each year if you care for them.

Q. Well, you might just read them into the record?

A. 1925, $2938.00. 1926——

Q. Just a minute. Would that be divided into two halves?

A. I haven't got the separation. It would be approximately a half in each six months, I imagine.

Q. All right.

A. 1926, $3,115.00. 1927, $3,201.00. 1928, $4,674.00. 1929, $6,519.00. 1930, $7,363.00. 1931, $4,463.00.

Q. Have you explained lines 28 and 29?

A. Yes. Those are the amortization rates used by the company in each period in setting up their reserve.

Q. Will you turn to Wood Exhibit 16? Will you explain this sheet?

A. I am showing on this Exhibit the difference in effect of applying the company's depreciation rates which prevailed at December 31, 1931, and those which prevailed at July 1, 1932, on the same classes of property. In showing this difference, I have applied both schedules of depreciation rates to the same property values. These values represent the cost of the property per the books without deduction for depreciation reserve as of December 31, 1931. I have also made a similar comparison of amortization rates on the last three lines of this exhibit. The net results show that the estimated depreciation under the July 1, 1932, [fol. 5989] rates as compared with the December 1, 1931, rates would provide $2,198,049.08 less depreciation expense on telephone plant and equipment, including office furniture and fixtures, and $14,405.00 less depreciation on general tools and implements and $7,038.83 less amortization on right of way had the company used the same rates in December, 1931, as prevailed as of July 1, 1932.

Commissioner Geiger: Well, you mean by that, as I understand, between December 31, 1931, and July 1st, 1932, they changed their method by which they set aside the reserve for depreciation of these amounts, on these items?

The Witness: Yes, sir.

Commissioner Geiger: And that the difference of the total as shown in approximately—or the total composite is $2,198,049.00 less by the new method than it would have been by the old method?

The Witness: That is right.

Mr. Herbert: That is down to Account 261.

Commissioner Geiger: Yes. Is that correct?

The Witness: That is right.

Commissioner Geiger: Well, what does it mean, when you interpret it, what does it all amount to?

Mr. Herbert: It is merely a reduction to table form, Your Honor, of the difference it makes in the setting aside of depreciation reserve on the books of the company according to the rate used and we have taken two rates they used, one December 1st, 1931, one July 1st, 1932, six months apart on the same property.

Commissioner Geiger: Well, what effect does that have [fol. 5990] on what we are trying to find out, what is the

purpose of the exhibit? To show that they have wrongfully changed their method or——

Mr. Herbert: This is reducing to a tabulation the effect in one six months' period, dependent upon the rate used. Now, if you go back to another exhibit, you will find the variation in rates used on Exhibit 14.

Commissioner Geiger: Well, what I had in mind was——

Mr. Herbert: It would be a matter for the Commission's calculation to determine according to its method of treatment.

Commissioner Geiger: What I had in mind was to inquire as we proceed what the purpose of the exhibit is. Does it show what, Mr. Witness?

The Witness: Well, I presume the commission will have to pass upon the fairness, the adequacy or the inadequacy of the depreciation rates they allow in this case, and I am attempting to give you all the information I can from the records of the company upon which you can form an opinion. I am not trying to decide it for you.

Commissioner Geiger: Well, it shows by this table that they have adopted a new rate which sets aside a less amount for depreciation in 1932 than in 1931, is that correct?

The Witness: That is what this table represents.

Mr. Thompson: There wasn't any change in method, was there, Mr. Wood, it was a change in the amount of the rates?

The Witness: That is right.

Mr. Herbert: For example, Your Honor, this means if the company had used the same depreciation in 1931, that it was using as of July 1st, 1932 there would have been in [fol. 5991] excess of two million dollars more showing in their net profit for 1931 than their returns show.

Mr. Thompson: We intend to make a showing to the Commission of the reasons for the adoption of the new rates.

Commissioner Geiger: All right. Go ahead.

Q. Now, turn to sheet marked Wood Exhibit Number 17 and explain that to the commission.

A. I have prepared this exhibit first to separate the total fixed capital as between non-depreciable property, depreciable property and amortizable property. I have then taken the depreciable property down to the lower part of the exhibit and compared it with the depreciation reserve as shown by the books of the company in order to develop

the per cent of depreciation and the per cent condition of the plant at the end of each year on a book basis. At the lower righthand side I have given the same treatment with respect to the amortizable property, comparing it with the amortization reserve per the books.

Q. When you speak of per cent condition in that answer, do you have reference to any observed existing condition?

A. No, I have reference to the per cent condition that would be developed by considering the depreciation reserve on the books in relation to the property to which it pertains on the books.

Q. Go ahead.

A. I have related these book figures with the tentative valuation of the commission as of June 30th, 1925, which are shown on Lines 16 and 32 of this exhibit. The figures appearing on Line 16 of $115,903,175.00 is the exact figure found by the Commission. The figures which I show as non-depreciable, depreciable and amortizable on Line 16 are my calculations based upon the summary valuations made [fol. 5992] by the commission.

Q. You did not make any study of the depreciation reserves appearing on the books of the company beyond the old Bell Company and the Ohio State Company?

A. No, I didn't go back of that.

Q. All right, turn to Wood Exhibit Number 18. Will you explain that sheet?

A. This exhibit summarizes all the purchased property acquired by the Ohio Bell Telephone Company during this period and shows the book cost to the Ohio Bell Company, together with the depreciation reserves acquired in connection with such property, also the book cost of amortizable properties acquired by purchase and the amortization reserves in connection therewith. And it shows the percentage of depreciation and the per cent condition of each property at the date of purchase on a book basis and the percentage of amortization and the per cent condition of amortizable property at the date of acquisition on a book basis. The purpose is to show these relationships for purchased properties and the extent to which they affect the calculations of the total properties shown on Exhibit 17. All of the items on Exhibit 18 are included in the figures shown on Exhibit 17, but the items on Exhibit 18 refer only to purchased properties.

Commissioner Geiger: That property is included in your Exhibit 17, however?

Witness: Right.

Commissioner Geiger: What do you mean by purchased property, where they purchase a whole telephone plant or buy separate equipment to put in various plants?

[fol. 5993] The Witness: Yes, where they purchase a whole company or a major part of a company or a large group of equipment. They don't necessarily purchase the whole company. You will notice that there are several items here purchased from the A. T. & T. For instance, on Line 22, that represents the purchase of the transmitters and receivers at the time the A. T. & T. sold them all to the various Bell operating companies. This is the part that was purchased by the Ohio Bell.

Mr. Thompson: Also 14 and 15 you have purchases of plant from the A. T. & T.?

The Witness: Yes, sir.

Commissioner Bricker: 39 is your largest item there, outside of 22?

The Witness: Line 25 and Line 35, Line 38 to 39. I am not familiar with the details of each one of those purchases. I know they did buy some toll lines and some switchboard equipment and various items at different times in greater or lesser quantities.

Mr. Thompson: I think, Mr. Wood, outside of the purchase of the receivers and transmitters that these other items are largely toll property purchases.

The Witness: I think so.

Q. Well, Exhibit 18 merely shows the situation as of the specific date as it appears in the date column at the left of the page?

A. That is correct.

Q. Exhibit 17 shows the situation of the entire company as of the dates indicated?

A. That is right.

Q. You start with the present Ohio Bell Telephone Company on Line 3 of Exhibit 18, do you not?

A. Yes, sir.

[fol. 5994] Q. Now, will you turn to sheet marked Exhibit 19? Will you explain that sheet?

A. Exhibit 19 is a summary of company's analysis of account 675.

Commissioner Geiger: What is account 675?

The Witness: Other general expenses.

Commissioner Geiger: All right.

The Witness: The total of which is shown on Line 46 of Exhibit 8. This analysis indicates the amounts recorded as rate case expenses, inventory and appraisal expenses and other miscellaneous expenses, all of which go to make up the total of account 675.

Commissioner Geiger: Well, now, where is the breakdown for those various items? You have inventory and appraisal expenses, $341,000.00, what does that mean, that they paid that to an appraiser to appraise the property or what?

The Witness: That is their expense of making inventories and appraisals, either through the use of outside engineers or through their own employees or both.

Commissioner Geiger: And miscellaneous expenses, what composed that?

The Witness: Well, it is a large number of items which go into this account. I haven't analyzed them in detail.

Commissioner Geiger: How does it differ from Other General Expenses? You have Miscellaneous Expense, 264,000 plus, other general expenses, 660,000 plus. What is the difference?

The Witness: Well, the other general expenses is the total of the account and includes the column "miscellaneous expenses".

Mr. Herbert: That is the designation of the whole ac-
[fol. 5995] count, Your Honor, "Other General Expenses".

The Witness: That is the name of the account.

Mr. Herbert: That fourth column is the total of the other three.

The Witness: I have not attempted to identify these rate case expenses or these inventory and appraisal expenses with this case that is now under review. Particularly in respect to the inventory and appraisal expenses, I understand that part of those expenditures were made in connection with studies, mortality studies and statistical studies for the purpose of determining depreciation rates, and other purposes as well as the inventory and appraisal expense, connected with rate cases. I also understand that these totals in this account do not necessarily include all expenses of the company on rate cases and inventory and

appraisal items, as some of such expenses were absorbed in the regular departmental accounts and were not specifically classified to this account.

Q. Does this reflect the company's books as of today?

A. This reflects the company's books and the analysis which appears therein with respect to these items.

Q. Now, will you turn to the last sheet marked Wood Exhibit 20 and explain that?

A. This exhibit is a summary of statistics taken from the reports of the company showing stations in service, per station revenues and expenses, and maintenance and depreciation percentages to plant.

For example, Line 1 indicates the increase or decrease in the number of stations in each period. Line 4 shows the average number of stations in service for each period [fol. 5996] Line 5 shows the average of monthly revenues per station on exchange service. Line 6 represents the average per station toll service revenue. Line 7 represents the average per station miscellaneous operating revenues, including directory advertising. It includes the group of accounts Number 521 to 526. Line 9 represents the license revenues paid by the Ohio Bell on a per station basis. Lines 11 to 15 represent the operating expenses reduced to a per station basis. Line 17 represents the net per station operating revenues less expense. Line 18 represents the percentage of current maintenance to average plant in service except intangible and general equipment items as computed by the company. Line 19 represents the percentage of depreciation of the average plant in service except intangible and all general equipment items, but including office furniture and fixtures, as computed by the company.

I wish to call attention to a correction, typographical error on Line 8, in the year 1924; the item 4.685 should read 4.635.

Q. What is the source of your percentages as they appear on Lines 18 and 19?

A. I secured those percentages from the company's monthly report Number 1. It represents their computation.

Mr. Herbert: We offer in Exhibit Wood Exhibits 11 to 20 inclusive, including 9-A and 9-B.

Commissioner Geiger: They may be admitted.

And thereupon the paper writings last above offered were introduced and admitted in evidence on behalf of the

[fol. 5997] State of Ohio and are herewith submitted, marked Wood Exhibit Number 1 to Number 20, inclusive.

Mr. Herbert: You may examine.

Cross-examination.

By Mr. Thompson:

Q. Mr. Wood, in connection with Exhibit Number 20, all the figures appearing opposite the headings, "Monthly telephone operations per average station". "Telephone operating revenues", and "Telephone operating expenses", are dollar and cent figures on a station basis per month?

A. That is right.

Q. Now, I have a minor point in connection with Exhibit 2 that I want to ask you about and it relates only to the years 1929, '30 and '31. I understand what you have done is to take from the annual report Number 6 the gross additions by separate plant accounts for each of these years, then the plant displacements and then the transfers and then you arrive at the net additions or deductions?

A. That is right.

Q. Now, as I understand, there was a little change in accounting practice in '29, '30 and '31, so that the transfers to which you have referred for that year were included in the gross additions?

A. I have been told that since I prepared this exhibit.

Q. It doesn't affect the totals at the bottom of this exhibit at all, does it?

A. No.

Q. The only effect it would have would be that the net [fol. 5998] additions in the separate plant accounts for those three years would be in error to the extent of the transfers for the three years?

A. There would be some differences there, yes.

Q. But so far as the totals are concerned, your totals would remain correct?

A. Yes, sir.

Q. Now, if you will turn to Exhibit 3 for just a minute, I don't know whether you can tell me about this or not, but I understand that included on the company's books there is an amount collected under bond in connection with the Canton Exchange which is shown in Line 23 of this exhibit, the total amount being $1,541,976.20.

Mr. Herbert: Let me——

Q. I understand that there has been collected under a bond given in a confiscation case in the Federal Court at the Canton exchange the sum of $1,097,270.70, which is included in the sum of $1,541,976.20, which appears on Exhibit 3 in Line 23 opposite "Canton". Do you know what the facts is about that, Mr. Wood?

A. I am not familiar with that, no, sir.

Q. If that is true, then insofar as this exhibit purports to show increased revenues on account of this particular proceeding before the commission, that amount should be deducted from the Canton exchange and a similar amount deducted from the increased revenues shown in total as $20,474,006.19?

A. Yes.

Mr. Herbert: I object to the witness answering. He is not conversant with it.

Commissioner Bricker: May I just ask a question of counsel here at this time, I think Mr. Burr is familiar with [fol. 5999] it, was there a permanent injunction finally issued in that Federal Court case?

Mr. Burr: No. There was an interlocutory injunction.

Commissioner Bricker: Was granted by the three-judge court?

Mr. Burr: Yes.

Commissioner Bricker: And it has been pending on that ever since?

Mr. Burr: Yes.

Commissioner Bricker: And I believe it was continued with the understanding that this case was pending over here and the commission was proceeding on this matter?

Mr. Burr: That is correct, Your Honor.

Mr. Thompson: The only thing I had in mind is this, Mr. Wood has correctly reflected in this Exhibit the entries shown on the books. This matter that I refer to is a matter that I thought we might be in agreement about, see, and I only brought it up for that purpose.

Q. Now, Mr. Wood, Your Exhibits 4 and 5, changes in corporate surplus unappropriated and disposition of net income and summary of net income, those two exhibits, like these other exhibits, correctly and accurately reflect the entries on the Ohio Bell books, as I understand it?

A. Yes, sir.

Q. Now, you of course included in this calculation as a deduction in arriving at your net income interest paid by the company?

A. Yes, sir.

Q. So that in any of the company's exhibits in this case, in which they arrive at the balance of net income available [fol. 6000] for interest and dividends there would be that difference between the exhibits in this case and your work in merely copying these various entries going to make up net income from the books of the company?

A. That is right. I have not attempted to present the net income that would be considered in connection with the fixing of rates. I have not made the eliminations that would be made, but I have shown all of the elements in these exhibits so that they could be eliminated if a rate study were prepared. I have not prepared a rate study.

Q. Just as further illustration of that situation, without attempting to spend much time on it, there would be the question of the reduction from net income of the income on non-operating property, wouldn't there, and the same question on interest on construction work in progress and interest earned on securities, bank balances and the like?

A. Those interest items and amortization of discount and expense and some of those rent revenues and expenses would not be considered in determining a net income for rate purposes.

Q. What you were doing is merely getting a correct statement from the books of net income as currently kept by the company?

A. That is right, and from this exhibit it would be possible to prepare a rate study by making the proper eliminations and adjustments.

Q. Now, I have a question or two with respect to Exhibit Number 7.

Commissioner Geiger: Exhibit Number 7 is your own exhibit, is it?

Mr. Thompson: No, it is Wood Exhibit Number 7, Your Honor.

[fol. 6001] Commissioner Geiger: I thought you had an exhibit Number 7 in this case.

Mr. Thompson: We do.

Mr. Herbert: Gregory 7.

Q. In Lines 9 to 15 of this Exhibit and also in Lines 21 and 22, you show the revenue received from various companies with respect to which the Ohio Bell Telephone Company made payments under its license contract with the American Telephone & Telegraph Company, is that correct?

A. Yes, sir.

Q. I think you already said this morning, Mr. Wood, that there were companies in which the Ohio Bell Telephone Company owned either a very large interest or perhaps owned the entire company, is that correct?

A. That is right.

Q. I assume also that the benefits under the license contract flowed to these companies that are listed here, whatever benefits the Ohio Bell received under the license contract it in turn passed on to the other companies?

A. Yes, insofar as they draw on the Ohio Bell for those benefits.

Q. That is what I mean, yes.

Mr. Herbert: I just want to interrupt, if I may. You mean, Mr. Wood, that as of the dates shown in Exhibit 7 of payments made by the Ohio Bell to the A. T. & T. based on figures as they appear on Lines 9 to 15, that as of those times the Ohio Company owned these companies?

The Witness: Yes, they owned a substantial portion if not all of their stock.

Mr. Herbert: In each one of those cases?

The Witness: Yes, sir.

Q. Mr. Wood, I think that you made this point perfectly [fol. 6002] clear this morning, but I want to be certain about it. There appears here that under the year 1922 on Exhibit 7 opposite the Chesapeake & Potomac Telephone Company, the sum of $185,674.43 with respect to which revenue the Ohio Bell paid to the American Telephone & Telegraph Company, as I understand it, $8,355.35?

A. That was the effect. I understood that they paid that to the Chesapeake & Potomac because they had previously paid it to the A. T. & T.

Q. Now, that income was with respect to property which had been purchased by the Ohio Bell from the Chesapeake & Potomac Telephone Company and which was actually located within the State of Ohio?

A. That is right.

Q. And the payment was made pursuant to the contract between the parties?

A. That is right.

Q. Now, if I understand the situation correctly as you stated it this morning, under the license contract, the Ohio Bell Telephone Company was entitled to receive up to the date of the sale of the instruments at the end of 1928, all of the instruments which it needed in rendering service to its customers in Ohio, and in that connection by the use of the word "instrument" I mean receivers and transmitters and induction coils, and then a margin of three per cent above that. If it got more than the three per cent margin then it was assumed that there was a revenue of nine dollars for each one of those instruments and if the license contract payment at that time was at the rate of four per cent, that would mean a charge payable to the American Company of 36 cents per instrument per year?

A. That is right.

Q. Now, with respect to these independent instruments [fol. 6003] for which credit was given, there was an actual deduction from the license contract payment of one dollar per year per independent instrument?

A. Yes, sir.

Commissioner Geiger: What was that figure?

Mr. Thompson: One dollar.

Q. So that on these excess instruments, if we assume the period when the license contract payment was on the basis of four per cent of revenues, we pay 36 cents a year for the instruments above three per cent and we receive a credit for a dollar a year for the independent instruments in the plant of the Ohio Bell Telephone Company?

Mr. Herbert: Except that the Ohio Bell had title to the other.

Mr. Thompson: No exception to it, this is just a fact about the revenue situation.

Q. That is right, isn't it, Mr. Wood?

A. That is stated correctly except that I don't believe the comparison is entirely clear. The dollar a year was on instruments in service that are earning revenues. The 36 cents are on instruments that are laying in the warehouse not earning revenues.

Q. That is right; but which of course the company expects to put into service in the near future I assume in the ordinary course of business?

Mr. Herbert: That is rather an argumentative question.

A. I suppose they would expect to or they wouldn't have it on hand.

Q. Exactly. Now, just one other fact in connection with these instruments in place in the independent companies, the Ohio Bell had the right to receive from the American [fol. 6004] Company under the license contract prior to the end of 1928, new instruments to replace those independent instruments at any time it asked for them?

A. Yes.

Q. Now, will you turn to Exhibit 9, Mr. Wood, which relates to the Western Electric, and I wish you would tell the commission on what line in that exhibit there appears the total annual purchases made by the Ohio Bell Telephone Company from the Western Electric Company which entered ito maintenance or other expense accounts?

A. Those figures will be found on Line 17 for maintenance items, Line 18 for traffic expenses, Line 19 for commercial expenses, Line 20 for general and miscellaneous expenses, Line 21 for the total of the above representing telephone operating expenses, Line 22 for rent expense, Line 23 for rent reductions for conduits, poles and other supports, Line 24 for rent deductions for instruments and equipment.

Q. And so the total expense and deduction items will appear in Line 26, is that correct?

A. Yes. There is one year there where there is a figure appears on Line 25, other interest deductions, only in the year 1931, which is not considered an operating expense, it is an interest item, I am not just sure as to why that came in that year, but not in other years. As I understand, the interest was paid to the Western Electric every year for balances on Class C stock and other items, but possibly there has been a change in the method of recording those items and I picked it up in that one year.

Q. Laying that question of interest aside, which would not be a large item in any year as related to these total [fol. 6005] items entering into maintenance and other expense accounts, may we take it as being a correct state-

ment that if we take Line 26 for each of these years, '22 to '31 inclusive, that we will find there recorded properly the total purchases of the Ohio Bell Telephone Company from the Western Electric Company which entered into the maintenance or other expense accounts of the Ohio Bell Telephone Company?

A. You can take that as correct with the qualification that these items are only those that originated on plant department entries.

Q. I understand, you have explained from the other, that there was, as I recall it, in four of the years——

A. On 9-B, I show the items originating on traffic, commercial, revenue accounting and disbursement accounting entries.

Q. Now, if to the figures appearing on Line 26 in Exhibit 9, we should add the figures appearing in Column 3 on Exhibit 9-B for the years '27, '28, '29, '30 and '31, then we would have what in your opinion represents the total purchases of the Ohio Bell from the Western which entered into either its maintenance or other expense accounts in each of those years?

A. Yes, sir.

Commissioner Geiger: Mr. Wood, at that point, was there in addition paid to the Western Electric or the A. T. & T. a license fee?

The Witness: There was no license fee paid to the Western Electric that I know anything about.

Commissioner Geiger: But there was in addition to this paid to the A. T. & T. a license fee?

The Witness: Yes, sir.

Commissioner Geiger: Of four and one-half per cent of [fol. 6006] total income?

The Witness: Yes, as reflected in account 527.

Commissioner Geiger: Where does that appear?

The Witness: I have a special exhibit for that, showing all the details. It is Exhibit Number 7.

Q. I call your attention, Mr. Wood, to Column 5 of Exhibit 9-B which shows the differences between your figures taken from the books of the Ohio Bell Telephone Company relating to Western Electric sales to the Ohio Bell and Mr. Gregory's exhibit 7 in this case. I understand that the

Ohio Bell in its bookkeeping deducts from its total purchases from the Western the amount which it receives for property returned which is to be junked and that in Mr. Gregory's figures that amount is not deducted. In your opinion, would that *that* account in substantial part for some of these differences which appear here?

A. Yes, if that condition existed, it would account for part of it.

Q. Now, will you turn to Exhibit——

Commissioner Geiger: Column 5 shows Western Electric sales exceed the Ohio Bell purchases by the amounts set forth in that column, is that correct?

The Witness: Yes, sir.

Mr. Herbert: That is perhaps a misnomer, Your Honor. He means that the Gregory Exhibit 7 shows greater sales to Ohio Bell than Wood's analysis of the Ohio Bell Company's books shows Ohio Bell to have purchased from Western Electric in those amounts.

Commissioner Geiger: Well, it is the same thing stated in the reverse order. Well then, the net result of that as [fol. 6007] shown by that column "unexplained" would be that the Western Electric appears to have sold more goods to the Ohio Bell than the Ohio Bell books show they purchased from the Western Electric, is that right?

The Witness: That is what it appears to show, but as a matter of fact, I don't think that condition exists. I think it is a matter of the accounting treatment by the two companies in their respective sets of books.

Commissioner Geiger: Well then, you mean to say that the differences that appear in Column 5 can be entirely disregarded because of the difference in bookkeeping of the two companies?

The Witness: There would be no great harm done if they were disregarded. I have had to show them there as a difference. I wouldn't know how to classify them without making an exhaustive study and reconciliation.

Commissioner Geiger: Well, will you be able to suggest how the commission will give any just weight to that difference there appearing unless we know whether or not it is explainable by the different method of keeping books?

The Witness: Well, you can see readily that the figures presented by Mr. Gregory are all in round dollars, which would account for a few differences, at least in hundreds.

And I know that the figures which I have presented in Exhibit 9 are net purchases, whereas it is very probable and entirely proper that the Western Electric may have reported gross sales.

Mr. Herbert: I just want to correct one part of your answer, net purchases through the plant department.

[fol. 6008] The Witness: Yes.

Commissioner Geiger: Let me ask this question, assuming that your column 5 on Exhibit 9-B is a correct statement of the amount in which the Western Electric sales exceeded the Ohio Bell purchases, what effect would that have upon the rate charged by the Ohio Bell for its service to its subscribers?

The Witness: I would say that it would have no effect.

Commissioner Geiger: No effect.

Mr. Herbert: This isn't prepared for that purpose, Your Honor. This is merely in an endeavor to reconcile Wood Exhibit 9 to Gregory Exhibit 7.

Commissioner Geiger: All right. Well then, one more inquiry, does this column 5 show the only difference that your exhibits have disclosed from those offered by the Company?

The Witness: They show the only differences in total.

Commissioner Geiger: Well, total of purchases?

The Witness: Total of purchases, between what I found on the Bell books and——

Commissioner Geiger: As to expenses and income, are your exhibits identical with the company's exhibits?

The Witness: Insofar as they are taken from the books, they are, yes, sir. I have elaborated on some of the figures and computed percentages and comparisons which I did not derive from the books, but used book figures.

Commissioner Geiger: Outside of the question of the amount purchased from Western Electric, do I understand that all your twenty exhibits disclose only this difference with the exhibits offered by the Bell Telephone Company in a former hearing in this case?

[fol. 6009] The Witness: That is a rather all-inclusive question, Your Honor. I don't necessarily agree with all the exhibits filed. I agree with all the figures in these exhibits which are taken from their books, which I naturally would in drawing the same figures off of the books.

Commissioner Geiger: What you are able to say then about your exhibits then is that the Ohio Bell Telephone

Company correctly exhibited the state of its books in the former exhibits offered herein?

The Witness: Yes, sir.

Commissioner Geiger: Whether they are correct as to the amount of money expended, you have no check?

The Witness: I have a check and I have an idea, but I am not expressing an opinion nor trying to determine the results, which I assume that the Commission will determine for themselves, based on the analyses presented here and on the figures presented by the company.

Q. Mr. Wood, will you turn for just a moment to your Exhibit Number 17? I want to see if I understand what you mean by condition per cent as related to the book cost of the property. Suppose that you would find in a given year that the book cost of the company's property was a hundred million dollars and during the same year there was an unexpended balance in the reserve for accrued depreciation of ten million dollars, then you would have entered in this second set of tables on the lower half of Exhibit Number 17 one hundred million dollars book cost, ten million dollars depreciation reserve, the depreciation ten per cent, and the per cent condition ninety?

A. That is right.

[fol. 6010] Q. And all of these figures relate to calculations of that kind and not, of course, to any inspection of the property?

A. Only insofar as the line 16 and 32 reflect the findings of the commission.

Q. Right. Now, if in that lower set of figures you go to your figures for June 30th, '25, which is in Line 24, by your calculation, relating the balance in the reserve to the book cost of the property, you find a condition per cent of 86.44; is that correct?

A. Yes, sir.

Q. And that is the relation of the reserve to the book cost of the depreciable property?

A. Yes, sir.

Q. The Commission found, as shown in Line 32, from the evidence with respect to inspection that the condition per cent was 85.48, or about one per cent less than the condition per cent you derived on this study of the books and the depreciation reserve?

A. That is correct.

Q. Now, turn to 18 just a moment. Under the column heading, "Depreciable Property, Book Cost", you have set out what I assume to be the purchase price paid by the Ohio Bell Telephone Company for various items of property purchased by it from other companies?

A. You might say the gross purchase price. They really paid that amount less the reserve that they took over in connection with the properties.

Q. Now, there are a number of cases here in which they purchased property and didn't take over any reserve. A typical example is in Line 7, Springfield-Xenia Telephone Company, where the purchase price paid was $565,183.51?

A. Yes, sir.

Q. And because they took over no depreciation reserve, you have figured in this book calculation that the per cent [fol. 6011] condition was 100?

A. Yes, sir.

Q. Now, do you happen to know, Mr. Wood, whether that figure represents the book cost of that property to the Springfield-Xenia Telephone Company?

A. I haven't inspected those records. I understand that—it would be a rare coincidence if it did.

Q. In many of these cases, it is a fact, isn't it, Mr. Wood, that when property was purchased by the Ohio Bell, it was purchased at much less than the actual book cost to the selling company and that in such cases where the property was entered on the books at the purchase price with no reserve, the net effect was that they entered less on their books than they would if they had entered the book cost to the selling company and the reserve of that company.

Mr. Herbert: I object to the question unless it is directed to some particular transfer.

Q. Well, let me put it another way, your study didn't go to an ascertainment of the facts in that regard at all?

A. No, I didn't examine the books of any of these companies that are involved in this exhibit.

Q. And what appears in this column is merely the book cost to the Ohio Bell Telephone Company?

A. That is right.

By Commissioner Geiger:

Q. Well now, assume that these companies, and we will use the same one, the Springfield-Xenia Telephone Com-

pany, was purchased by the Ohio Bell Telephone Company at the price set down as the book cost and was afterwards discontinued or absorbed or combined with the Bell Company, is there a deduction in some book account of the value of their property by that? If so, in what exhibit? [fol. 6012] Do you understand me?

A. Read the question.

(Question read.)

A. There would be no deduction unless part of the plant was displaced. If it was combined with the plant of the Ohio Bell Company which it was, this is the amount that was added to the property accounts of the Ohio Bell Company.

Mr. Herbert: In that particular example, that shows the date and the amount paid by the Ohio Bell for the Springfield plant?

[fol. 6013] The Witness: That is right. If at a later date any portion of that was dismantled or sold to somebody else or in any way disposed of, the account would be relieved by the amount that was taken out and the charge would be made against the depreciation reserve.

Commissioner Geiger: That is what I wish to get at. If the record shows that the Ohio Bell Telephone Company during the course of years purchased these independent companies and put in their book account the amount of the purchase and afterwards a part of those independent companies was discarded, that matter would appear in the books of the company?

The Witness: Yes, sir.

Commissioner Geiger: As fixing the net value of the property after the independent company had been absorbed and a part of it discontinued?

The Witness: That is right. That could be traced through in any individual case. I haven't gone to that extent.

Mr. Thompson: I have no further questions.

Redirect-examination:

By Mr. Herbert:

Q. Well, the effect of putting the plant of the Springfield, Xenia Telephone Company on the books at 565,000, as is shown on Line 7 as of September 30th, 1922, or the effect of the purchase of the telephone instruments as shown on Line 22 from the American Company in December of 1927, puts

that property and similarly shown property on this exhibit [fol. 6014] 18 on the books of the company without a depreciation reserve created as against those particular items, does it not?

A. Yes, sir.

Q. And as that plant is displaced, subsequently the charges were made to the depreciation reserve account as a general account of the company, is that right?

A. Yes, sir. There would be a slight difference in treatment of those A. T. & T. items for the reason that they represent instruments.

Q. You mean that would go into that Class 6 stock?

A. No, I don't know that there would be any difference. The instruments would be charged when displaced to the depreciation reserve, but the installation cost of the drop wires and so forth would go through another account. It wouldn't affect this item here. This pertains strictly to the instruments.

Commissioner Geiger: Mr. Wood, just endeavoring to get a specific example, suppose it appears in the accounts and the book valuation of the property, the cost price of the ordinary desk phone, and these ordinary desk phones were subsequently supplanted by the present cradle phones, wherein would it appear and does it appear that the displacement of the desk phone has been charged to depreciation? Or is the value of both the desk phone and the cradle phone still within the book value of the company?

The Witness: No, the book value of the company reflects only the instrument that is in service. The instrument that comes out of service is credited to the property account and charged to depreciation reserve.

Commissioner Geiger: Well, is there no accounting of the value of that instrument anywhere?

The Witness: Oh, yes, there is a minute accounting of it. [fol. 6015] The new instrument goes in at its cost, the *only* instrument comes out at the cost that it formerly went in at.

Commissioner Geiger: And where does the old instrument then go?

The Witness: The old instrument is charged to the depreciation reserve at the same value that it comes out of the property account. If it can be used again, it will be charged to the material and supply account and the salvage value

credited to the reserve. If it can't be used again, the loss will remain in the depreciation reserve account.

Commissioner Geiger: In other words, it does not happen that both the cradle phone that is now in use and the displaced desk phone are both in the book value and makes up the book value of the property?

The Witness: No. There is no duplication there.

Q. Does your Exhibit 10 cast any light on the telephone instrument situation in regard to the displacement of one by another?

A. Exhibit 10 on line 30 and 31 shows the number and value of receivers and transmitters which have been taken out of the plant of the Ohio Bell Telephone Company and sold to the Western Electric Company and held by them as Class C Stock. Those receivers and transmitters, if they require any rebuilding or repairing, such work will be done on order by the Western Electric, and at such time as the Ohio Bell needs them again they will purchase them back. The repair charges will be charged to maintenance and the repurchase will be at these same figures, which shows that there are a large number of receivers and transmitters in Class C stock, I am not prepared to say whether they are of the type that will be ever re-used or whether if they [fol. 6016] should be replaced by a different type, why, there might be a loss incurred there due to the fact that there would be no demand for them to be re-used in the property. I don't know. It is speculation on my part.

Commissioner Geiger: Well, the withdrawal of these instruments is all taken care of by the reserve for depreciation and there is no special reserve for them for amortization for lack of utility?

The Witness: The obsolescent feature is supposed to be covered by the depreciation rate.

Q. Mr. Wood, you made some reference in answer to a question by Mr. Thompson in regard to interest for balances on Class C stock. I didn't quite get it at the time. Do you recall it?

A. Yes, there is a payment made to the Western Electric computed on the balances on Class C stock, it represents interest on these balances which are paid by the Ohio Bell Company.

Q. I just want to get this straight. Do I understand, for

example, that they pay interest on amounts as are shown on Exhibit 10?

A. Yes, sir.

Q. That is the interest item that you had reference to—what exhibit was that?

A. Exhibit 9, in the year 1931, shows an interest item of $17,752.93. I didn't check that to find out just how it was computed, but it is an interest item paid by the Ohio Bell Company to the Western Electric, and I believe that the greater part, if not all of it, pertains to Class C stock.

Q. From your analysis of their books, are you familiar enough with their methods to say whether or not it is a fact [fol. 6017] that they pay interest to the Western on the amounts as they show on your Exhibit 10?

A. Yes, they do that on a monthly basis. It is figured only once a year. They pay that interest monthly.

Q. That is one of the items which you treat as excluding in a rate study?

A. Yes, it would have no bearing on a rate study.

Mr. Herbert: That is all.

Recross-examination.

By Mr. Thompson:

Q. I have just one further question, Mr. Wood, and it relates to the entering of the purchase price for the property acquired by the Ohio Bell on its books without a reserve for accrued depreciation being also taken over. I want to ask you whether it isn't true that before you could tell the effect of that situation upon the annual charges for depreciation of the Ohio Bell you would have to have something more than those mere book entries, would you not? In other words, wouldn't you have to know something about either the value of that property or the book cost to the selling company or its actual physical condition and other factors of that kind before you could draw any conclusion as to what effect that situation would have upon the annual rates charged for depreciation?

A. I don't believe I can answer that.

Q. Withdraw the question. Let me just ask this, what you show there in your exhibit is that in certain cases the Ohio Bell acquired property at a certain purchase price [fol. 6018] from other companies and that in given cases it didn't take over any reserve for accrued depreciation in

connection with that property; now, that means that it applied its annual depreciation rate to the purchase price of the property by classes of plant?

A. That is right.

Q. Now, that is as far as that exhibit intends to go, isn't it, to show that fact?

A. Well, the real intent of that exhibit is to show that fact and to show that approximately eighty million, I believe, or nearly half of the company's property is made up of purchased property.

Q. That is right.

A. And that the relationship of the reserve to that eighty million is a lesser relationship than it is to the total properties of the company, which includes not only the purchased property but the property built, constructed by its own forces.

Q. And now the point that I am trying to make is this, if you also knew what the cost of that property in its total was to the selling company, and what reserves for accrued depreciation maintained on the books of the selling companies were and the difference between the two, then you would have a complete picture so that you could find out what difference, if any, there would be if the Ohio Bell had entered the costs to the selling company less the reserve on its books from its present method of treatment?

A. Yes, you could figure it through further than I have.

Q. As I understand, under the rules of the Interstate Commerce Commission, the Ohio Bell is bound to enter upon its books the purchase price paid by it if that purchase price be as low or lower than an appraisal of the [fol. 6019] property made at the time?

A. Yes, cost must be cost to the purchasing company.

Mr. Thompson: That is all.

By Mr. Herbert:

Q. Well, what appraisal do you understand in Mr. Thompson's question, Mr. Wood?

A. I just wanted to qualify my answer there while we are on that subject.

Q. Go ahead.

A. The book cost may relate to the net book cost, that is, what we might call the gross cost less the depreciation reserve; it can be put on in two parts showing gross cost

and gross reserve. It has been done in a number of these instances, and in other instances only the net cost has been put on. Now, to answer your question, the appraisal I assume he refers to, in most instances where property is purchased there is an appraisal made by the purchasing company or the selling company as a basis upon which they negotiate and the ruling is that if the final price determined to be paid for the property is less than the appraisal value developed at that time, only the cost can be entered on the books.

Q. To whose appraisal do you refer?

A. The company's appraisal, anybody's appraisal of that particular property they are buying.

Commissioner Bricker: Do you know whether there was an appraisal made of these various properties set out in your Exhibit No. 18 by this Commission at the time of the transfer or a check made against the appraisal submitted by the companies?

The Witness: I don't know.

Mr. Herbert: That is all.

Commissioner Geiger: Mr. Wood, you were employed by the state through the Attorney General's office to make certain investigations and report in connection with this case, [fol. 6020] is that correct?

The Witness: Yes, sir.

Commissioner Geiger: And one of those, as I understand it, was to check the revenues and expenses of the company as shown by their exhibits heretofore introduced in this case, is that correct?

The Witness: Yes, sir.

Commissioner Geiger: And did you do so?

The Witness: Yes, sir.

Commissioner Geiger: And did you find any substantial difference between their statements in their first exhibits and the examination that you have made?

The Witness: No, I did not.

Commissioner Geiger: Would you then be in a position to say that so far as the expenses and the income, that the company's exhibits were substantially correct?

The Witness: Yes. The basic figures are correct. They are exactly correct according to their books. I don't say that they are correct for the purpose that you want to use them, because I understand there have been lots of other

points developed in this case in which you may care to enter adjustments, I haven't attempted to carry any adjustments through. For instance, I understand there are questions about Western Electric profits and A. T. & T. costs and depreciation and one thing and another which I have not tried to adjust. But the figures are correct as presented by the company and they agree with these that I have presented in this insofar as they represent the earnings, revenues and expenses from their books.

Commissioner Geiger: Well, now, in your examination of the books of the company, did you at any time arrive at a [fol. 6021] point or an item where you might have had some doubt as to the correctness of the charge made by the company upon its books for any given expense?

The Witness: Well now, you don't extend that to include the propriety of any item? I didn't go back of the exhibit and get into the mass of details and thousands and thousands of vouchers and checks to determine whether they should have made an expenditure or they shouldn't. I simply stopped at their general books and found that the figures shown there agreed with the exhibits they filed, and as presented in my exhibits here.

Commissioner Geiger: And for the further question as to whether the expenditures were proper, you made, of course, no investigation?

The Witness: No. I have drawn off analysis of all of the expense accounts in which fluctuations appear from year to year by separate accounts. I haven't presented them all in this report here. I can present them if you want them, but I saw nothing there to excite suspicion and I didn't burden this report with all those details.

Commissioner Geiger: Well now, in your examination of the company's books, did you find any treatment of reserves for depreciation that were in your judgment open to further examination or criticism or investigation?

A. Well, I think the whole question is open for the criticism and examination of the Commission, and I tried to give the details that would permit the Commission to pass upon the figures as submitted.

Commissioner Geiger: Has there or has there not appeared and fallen under your observation anything that [fol. 6022] appears unreasonable or unusual in their reserve for depreciation?

The Witness: No, I couldn't say there was anything unreasonable or unusual in their treatment. They followed strictly the accounting prescribed by the Interstate Commerce Commission and their records are very complete and detailed, and itemized, you can get almost any amount of information you may desire from the books and records of the company.

Commissioner Geiger: Do I understand you to say that their books have been very carefully kept and show all transactions in which this company is engaged in complete detail so that they would be subject to check and examination?

The Witness: Yes, sir.

Commissioner Geiger: And you find nothing that you can point to at present as being subject to criticism. Now, returning to your Exhibit Number 18, there appears in that exhibit a number of purchases from the A. T. & T. Company, that is the parent holding company of the Ohio Bell Company. Do you know of any items that have appeared and come under your attention as being book costs or monies paid to the American Telephone & Telegraph Company that is subject to further scrutiny or criticism?

The Witness: I would suggest the item on Line 22 is the only one I have definitely in mind, and has already been touched upon by Mr. Herbert, where it is known from other evidence in the case that there was a depreciation reserve against those instruments carried on the books of the A. T. & T. Company. There is quite a lot of evidence in the case, and a number of exhibits in before relative to that transaction, all of which I assume will be taken into con-
[fol. 6023] sideration in connection with this exhibit.

Commissioner Geiger: What is that purchase, No. 22, December 31, 1927, $1,579,593.51, that was set down as the book cost for certain property purchased of the A. T. & T. Do you know generally what that property was?

The Witness: Yes, receivers, transmitters and induction coils.

Commissioner Geiger: Now, have you examined that item carefully?

The Witness: I have an abstract of the journal entry that put it on the books. If you would care to have it read into the record I would be glad to do so.

Mr. Herbert: Your Honor please, Mr. Wood's judgment isn't involved in any entry on this page, Exhibit 18.

Commissioner Geiger: I beg pardon?

Mr. Herbert: I say Mr. Wood's judgment is not involved in any entry on this page, Wood Exhibit No. 18. He didn't go back of the——

Commissioner Geiger: I am just trying to find, Mr. Herbert, when are we going to get done with this case? Now, is there sombody going to criticize again that item and say it is wrong, without further——

Mr. Herbert: I will offer to criticize it at the earliest opportunity.

Mr. Thompson: In that connection, Your Honor, the complete record showing this transaction and the basis upon which it was made has been stipulated into this record.

Commissioner Geiger: It is there?

Mr. Thompson: From the Illinois case. Mr. Herbert has [fol. 6024] his argument and we have ours.

Commissioner Geiger: All right then, we will have both sides.

Mr. Thompson: Yes, sir.

Commissioner Geiger: Mr. Wood, you also were interested to ascertain whether or not the purchases made by the Ohio Bell Telephone Company from the Western Electric Company were the source of any undue profit to the Western Electric Company?

The Witness: No, I had no direct interest in that. All of the data in connection with that phase of the case was handled by other accounts. I was only interested to determine the proportion of purchases from Western Electric and the disposition thereof on the books of the Ohio Bell Company.

Commissioner Geiger: Well then, as I gather it, the net result of these twenty exhibits is that you are able to say that they disclose the fact that the former exhibits, by the Bell Telephone Company, are substantially correct, is that correct? That is, their exhibits, so far as their book costs are concerned?

Mr. Herbert: Some of these exhibits don't apply to the company exhibits. I would like to answer the question for the witness, for the reason these twenty exhibits are prepared for the commission to apply its judgment to the various accounts of the company insofar as it determines

to affect those accounts by its judgment on other matters, such as Western Electric, A. T. & T., depreciation reserve, rate of return. This merely is a historical treatment of what the company has done from this present company's inception in September, 1921, down to and including 1931.

[fol. 6025] Commissioner Geiger: Correct. Well, let me put a question a little different. Of your twenty exhibits, are there any exhibits that cover matters substantially different from that already covered by some exhibit offered by the company?

The Witness: No. There are some that show different treatment, but they are based on the same facts, elaborate in some respects and condensed in others. They are all taken from the same books and they all agree in essential facts.

Commissioner Geiger: Well then, might we say this in a general way, Mr. Wood, that your twenty exhibits do not present to the Commission any figures that are different from those already heretofore presented?

The Witness: No, I wouldn't say that. The company didn't present anything with respect to the distribution of the Western Electric debits and credits. Nine and Nine-A are entirely different from anything I know of in the record, outside of Gregory Exhibit No. 7, and there are a number of side lights that I have in here that have not been offered heretofore, the detail of purchased properties and the carrying out of the depreciation studies in their relation to plant and expressed in percentages, there are a number of items in here that are new in the case. They are based on the same basic figures that are already in here insofar as they represent balance sheet items and revenue and expense and all that, the basic figures are all there and all agree with what the company has already filed, but the development here has been more elaborate in some respects and more condensed in others.

Commissioner Geiger: What I was trying to get at for our future consideration, are the points of difference be-

[fol. 6026] tween your exhibits and the company's exhibits and the points of agreement. If they agree we don't care to spend our time in re-examining them. If they differ, we want to know on what points they differ.

The Witness: Insofar as they cover the same subject matter they agree. Does that answer your question?

Commissioner Geiger: Well, not entirely. Then I would ask you what number of your exhibits present new subject matter?

The Witness: All right, I will try to tell you.

Commissioner Geiger: Just give the numbers.

The Witness: Not being entirely familiar with all that the company has in, I will just have to rely on my memory as to whether they have presented similar exhibits to these or not. I believe they have no exhibit comparable to number 3, changes in corporate surplus and estimated amount of revenues collected under bond. I don't believe they have that exhibit.

Mr. Herbert: I would like to interpolate, that is not in dispute.

The Witness: Yes, but he is asking me what I am putting in here in addition to what is already in. Number 4, changes in corporate surplus unappropriated and disposition of net income. I don't believe that is in the form that I have got it.

Commissioner Geiger: Well, does that in any way reflect upon the ultimate question of the rates to be charged to the consumer?

The Witness: It might, according to what interpretation [fol. 6027] you put on it.

Commissioner Geiger: All right, go ahead.

The Witness: Summary of net income, Exhibit No. 5. As I remember, the company's exhibit pertained to income for rate purposes.

Mr. Herbert: The Eide exhibit?

The Witness: Yes, and did not include all of the items that I have on this Exhibit No. 5.

Commissioner Geiger: Well, do the items that you have tend to change the rate to be charged to the consumer?

The Witness: It might, according to what interpretation you put on them. No. 7 I don't believe is in the record, analysis of license revenue debit. No. 9, 9-A and 9-B, relating to Western Electric purchases, I am sure those are not in any other place. Number 10 involving Class C stock, I don't think that has been introduced. In fact all of the exhibits from there on are presented in more detail than I believe have been heretofore introduced, No. 11 to 20.

Commissioner Geiger: But are they on the same subject matter?

The Witness: I don't know whether they have given any

depreciation analyses or not. If they have, why, they would be on the same subject matter.

Commissioner Geiger: I presume those matters will be handled by counsel, because otherwise we have just got an additional bunch of figures here with nothing that we can gain by it except to look over some more figures.

The Witness: I believe they have an exhibit in there showing per cent condition of some of the properties, I don't [fol. 6028] recall what the number is, I think someone from the company introduced an exhibit showing the per cent condition on some properties. To that extent it might be comparable with this exhibit that I have covering that same data.

Commissioner Geiger: Is it your purpose, Mr. Herbert, to elaborate upon these differences in your argument to the court, or are you just going to hand us these exhibits and say, "Here they are"?

Mr. Herbert: My purpose is, the only thing to be considered, Your Honor, I understood it was the desire and wish of all parties to close this record at the earliest possible moment. I expect to at the earliest possible moment furnish the Commission with a summarized brief on the points to be made from these exhibits, yes, sir.

Commissioner Geiger: All right. This is the information we want. Because we must look at this thing in a common sense sort of a way. The fact that somebody introduces a lot of figures doesn't help anybody get anywhere unless they point out what those figures are introduced for and how they differ with somebody else's figures, and I anticipate you will do that. All right, gentlemen, is there anything further?

Mr. Thompson: No, nothing further.

Mr. Herbert: We have nothing further.

Mr. Burr: I have one thing, Your Honor. Although the fixed capital of the Ohio Bell Company has been referred to from time to time in evidence, the amount of the fixed capital by accounts and by years has not been shown in evidence so far as I know. In order that it may be in the record, we have prepared a statement of the fixed capital by accounts showing the fixed capital for the years '21 to '31 inclusive, as of December 31st of each year. Mr. Brett, [fol. 6029] who prepared the exhibit, has been sworn before,

he has testified before, and if there is no objection I will just ask him where he sits if the compilation marked Brett Exhibit 8, sheets 1 to 13, is a statement of the fixed capital to which I have just referred?

Mr. Brett: It is.

Mr. Burr: Is it correct and from the books of the company?

Mr. Brett: It is.

Mr. Burr: We will offer it in evidence, Brett Exhibit 8.

And thereupon the paper writing last above offered was introduced and admitted in evidence on behalf of the Ohio Bell Telephone Company and is herewith submitted, marked Brett Exhibit 8.

Mr. Burr: Mr. Wilson may take the stand. I want to ask Mr. Wilson one or two questions.

[fol. 6030] And also A. F. Wilson, called on behalf of the Ohio Bell Telephone Company, being heretofore duly sworn, testified as follows:

Examined by Mr. Burr:

Q. Mr. Wilson, you have heretofore testified in this case?

A. Yes, sir.

Q. You have been sworn and have given your qualifications?

A. Yes, sir.

Q. What is your present position with the Ohio Bell Telephone Company?

A. Assistant vice president.

Q. Mr. Wood's Exhibit No. 14 shows depreciation rates used by the Ohio Bell Telephone Company prior to the year 1929 and for the years 1929, '30 and '31 and during the year 1932. Have you examined that exhibit?

A. Yes, sir.

Q. Does it correctly show the rates which were in effect during that period?

A. Yes, it does.

Q. Will you tell the Commission why the rates were changed in 1932?

A. A marked reduction in the rates of retirements of plant occurred in 1932, and while a difference in the rates of retirements for one year would not be a basis for a change in the depreciation rates, our expectation is that re-

tirements will continue at a lower level than heretofore and that fact can not help but affect the rates required. The rate of retirement, which was in excess of 8 per cent for each of the years 1930 and 1931, had averaged that per cent for several years past, and dropped in 1932 to 6 and a quarter per cent, which was the lowest rate for any of the 10 preceding years with the exception of one year.

[fol. 6031] Q. You say 8 per cent; 8 per cent of what?

A. 8 per cent of the plant in service was retired per year. Much of the property retired during that 10 year period, 1922 to '31, had a very short service life. For instance, most of the central office equipment replaced with dial offices in recent years had an average realized life of only 5 to 10 years. I have some illustrations of that. The average life of the entire Akron central office equipment at the time of retirement in 1930 had been only 5.8 years, and this equipment, if considered separately, would have required a depreciation rate of 16.4 per cent during its entire life. Similarly, the Dayton manual equipments retired in 1931 had realized service lives of 8.7, 4.2 and 10.1 years respectively for the several offices in that exchange, and the depreciation rates necessary in those offices individually would have been 11.2, 23.6 and 9.7 per cent. The Columbus Franklin office was retired in 1930 with an average life of 7.9 years, requiring a rate of over 10 per cent. And the Cleveland Eddy office was retired in 1932 with a realized life of 9 years, requiring a rate of about 11 per cent.

Q. What is the average service life of manual central office equipment on which your present depreciation rate is based?

A. 14 years.

Q. How do you account for the fact that the lives of the offices you have cited were so much shorter than that, that is, than 14 years?

A. The rapid growth in telephones which the Ohio Bell Company has experienced for many years made it necessary to make large additions which in the case of these offices, for instance, had to be made from time to time, practically up to the date of retirement. For this reason, al-

[fol. 6032] though many of the offices were in existence for periods of 20 or more years, substantial percentages of the equipment had served for periods of only one, two, three years and so forth, thus greatly reducing the average life of the entire equipment.

Q. What is your present view?

A. Our present view is that the majority of our remaining manual offices will not require replacement in the near future and we do not expect that similar short-lived retirements will be necessary to the same extent as in the past.

Q. Has there been a similar change in conditions with respect to other classes of plant?

A. Yes, in the case of buildings, substantially the same conditions apply as in the case of the central office equipment which is housed by those buildings. A number of buildings of relatively short life as buildings go have been retired in connection with these central office replacements to which I referred. We do not expect there that the buildings remaining in plant will have such short lives as those retired during this period.

Q. What about your outside plant?

A. There has been the same condition of relatively rapid retirements involving a considerable amount of plant which has been in service for a short period. The total retirements involved a considerable quantity of plant which had only lived a short life. One of the factors in that connection was the relocation of these new central offices. That resulted in the retirements of cables leading from the old central office locations, many of which had been added in just a short time prior to retirement, to take care of the last incidence of growth which occurred in the subscribers' service from the old office.

[fol. 6033] Q. What about the fact of unexpedtedly rapid growth?

A. That occurred; aside from the general rapid growth, certain areas, allotments and so forth would have unexpectedly rapid growth so that the cables serving them would become filled sooner than anticipated and require replacement with larger cables or in some cases the replacement of aerial cables with underground construction. Public improvements such as paving and widening and straightening of roads and white way projects also were very active during this period of growth and resulted in many premature retirements of poles and other items of plant. It was expected that a reduction in such improvement projects and also because many of the situations involving telephone plant have already been taken care of, that there will be fewer retirements from this source in the future. I think

those illustrations indicate the reasons underlying the change which we have made in our depreciation rates.

Mr. Burr: That is all.

Cross-examination.

By Mr. Herbert:

Q. How long have you been with the Ohio Bell Telephone Company, Mr. Wilson?

A. I have been with the Ohio Bell Telephone Company since it was formed.

Q. That is with the old company as well as the new?

A. I was with the Cleveland Telephone Company from 1914 until the Ohio Bell was formed, with the exception of a few years in the army, and was with that company when it became a part of the Ohio Bell.

Q. Were you co-versant with the old Ohio State Tele-
[fol. 6034] phone Company?

A. As a company?

Q. Yes, as an operating plant?

A. At the time it operated? To some extent.

Q. Were you conversant with that portion of it after it came over into the Ohio Bell system?

A. Yes, sir.

Q. Would you say that that plant was in 94 per cent condition at the time it came over?

A. I wouldn't care as this time to make an estimate of the per cent condition of all that property and, as a matter of fact, I was not familiar with the majority of the property at that time, as my duties were confined to Cleveland for a number of years after that.

Q. Were you conversant with the old Central Union property?

A. No, sir.

Q. Knew nothing about that?

A. No, sir.

Q. Are your duties to handle the matter of depreciation reserve expense?

A. That is one of my duties.

Q. In other words, you participate in setting the annual percentage figure?

A. Yes, sir.

Q. How long have you been doing that?

A. Three years.

Q. Did you have any contact with that work prior to three years ago?

A. No, sir, not with depreciation studies. I might clear up one question. You asked if I was familiar with the Central Union property. I assumed you meant at the time of acquisition by the Ohio Bell and thereafter.

Q. Yes.

A. My study did not cover that prior to that time.

Q. At what time in your connection with the Ohio Bell system did your duties take you into contact with the plant that had formerly been the Central Union plant, do you recall that?

A. It would be about 1921.

[fol. 6035] Q. Well, are you aware of the fact that there was no depreciation reserve set up on the books of the Ohio Bell Telephone Company or carried over on the books of the new Bell Telephone Company created for that portion of the system which had formerly been the Central Union System?

A. I am not familiar with the bookkeeping.

Q. Assuming that to be the fact, it would have necessitated a higher percentage depreciation figure set aside annually to make up for that difference, would it not?

A. That is not the way depreciation rates are arrived at. The rates are the rates which would be necessary to retire the property, to amortize the property, regardless of change of ownership and regardless of the reserve that might or might not be taken over with those properties.

Commissioner Geiger: When the Ohio Bell Telephone Company took over any independent company, they bought the physical assets, did they not, and incorporated them into their new company or discarded some, improved others and started out a new Bell Telephone Company, they did not buy the common stock of the old company and continue as a holding company?

The Witness: I believe some purchases were made in one way, Your Honor, and some in the other. Of course, our book records show that and I am not familiar with how each purchase was handled, particularly in those earlier periods.

Q. Would you say that there was very much left in the present system of the old Ohio State property as it existed at the time it was merged into the present company?

A. There is some. I wouldn't say just how much.

Q. Well, regardless of the method by which depreciation [fol. 6036] reserve is set up, this would be the fact and the experience of this company, would it not, Mr. Wilson, that where it buys a company, plant, in 1925, and sets that up on its books without a dollar in the depreciation reserve for that portion of that plant, that the displacements of that particular plant that occur in 1926 are charged against the depreciation reserve account of the entire system?

A. Yes, sir.

Q. So that the effect is to take out or rather to charge against the depreciation reserve account the book cost to the company of all the material which it purchased in 1925 that it displaces in 1926?

A. Yes, sir.

And thereupon an adjournment was taken until 10:00 o'clock A. M. of the following day, Friday, December 30, 1932.

[fol. 6037] Friday Morning Session

December 30, 1932.

And also A. F. Wilson, resuming the stand, continued his testimony as follows:

Cross-examined by Mr. Herbert:

Q. Mr. Wilson, when you first testified in this record earlier at page 4878, you stated that you had been general plant manager, chief engineer and so forth?

A. Yes, sir.

Q. Will you give us the times of each of those positions?

A. The position of supervisor of plant operation was my first, probably the last one mentioned, and I took that position at the beginning of 1922, which is the time I became associated with all of the various properties combined in the Ohio Bell. I mentioned yesterday that I had not detailed experience with the properties prior to that time, just general acquaintance with them.

Q. You became supervisor of plant operations at the time of the organization of the present company?

A. Just shortly after that, in the beginning of '22.

Q. That is of all the plant of the company?

A. Yes, sir.

Q. In Ohio?

A. The entire property, entire Ohio property, entire Ohio plant operations.

Q. What were your duties as supervisor of plant operations?

A. That was in a staff capacity to study the results of the plant operation.

Q. Did that have anything to do with replacements, dis-
[fol. 6038] placements?

A. Not with the engineering of them. They would, of course, be part of the picture.

Q. Well, in the execution of them did it?

A. As I say, it was a staff capacity and I studied the performance of the plant portions, the maintenance results and construction results and so forth.

Q. Maintenance and depreciation are always considered somewhat together?

A. Not particularly, no.

Q. Aren't they related on some of your report forms?

A. No, sir, they appear as separate items in all cases.

Q. I am trying to find out just what you did as supervisor of plant operations, that is, supervisor of all the plant operations in Ohio?

A. That is it.

Q. What is meant by plant operations?

A. The maintaining of the plant, the installation and service.

Q. Did you supervise installation?

A. I supervised the results. If you get what I mean, the men making these things were not reporting to me as they would when I was general plant superintendent, but I studied the results and called to the attention of the line organization things which came to my attention.

Q. Then you had no part in the policy of new installations or of displacements of plant?

A. Not except as the results of any studies I might make might be taken into consideration.

Q. Were your studies made after these installations or displacements or before?

A. After the results, after the operations.

Q. Well then, as supervisor of plant operations, you had
[fol. 6039] no part in the policy of making displacements or new installations, is that correct?

A. That would primarily be determined by the chief engineers and people looking after the details of that.

Q. When did you go from supervisor of plant operations to district plant superintendent?

A. I would say that was 1924.

Q. And what district was that?

A. The Youngstown district.

Q. How long were you in that capacity?

A. One year.

Q. In 1925 you became division plant superintendent?

A. There is a title in there that I may not have given. For about a year I was superintendent of cut-overs, and then following that, division plant superintendent at Cleveland.

Q. Superintendent of what?

A. Of cut-overs, of dial converting. That was working primarily——

Q. What year was that?

A. That was in '26.

Commissioner Geiger: Would you be willing to speak a little louder? I think the stenographer has a little difficulty in hearing you.

The Witness: Yes, sir.

Q. That was in 1926, you say?

A. Yes, sir.

Q. Were you superintending all the dial cut-overs in the system or just in the Youngstown district?

A. That was in Cleveland and my activities were primarily confined to preparing for the Cleveland cut-over. It was not in Youngstown. I changed from Youngstown back to Cleveland when I took that position.

Q. Then when did you become division plant superintendent?

A. The end of '26. It would be the year of '27 that I held that position.

[fol. 6040] Q. What portion of the system were you division plant superintendent of?

A. The downtown and west side of Cleveland, known as the Cleveland and West Division.

Q. Is the division a sub-division of a district?

A. No, a district is a sub-division of a division. The division is the larger.

Q. A lot of that activity was in Cleveland?

A. That was all in Cleveland, my division was entirely in Cleveland.

Q. Your division was the west side of Cleveland, you say?

A. And downtown. Cleveland is divided into two divisions, called Cleveland east and west, and the downtown is part of the west division.

Q. When did you become chief engineer?

A. 1928.

Q. Is that of the whole company in Ohio?

A. No, that was of the southwestern area, which includes the Columbus, Toledo and Dayton division.

Q. You became general plant manager in 1930 or '31?

A. '30. I believe that was '29.

Q. '29.

A. Yes. '29 and continuing into '30.

Q. You became assistant vice-president——

A. In '31.

Q. January of '31?

A. Yes, sir.

Q. Yesterday when you testified as to the rate of retirement having been in excess of 8 per cent of the plant in service during the years 1930 and '31, do you have those figures at hand?

A. I believe you will find them right on Exhibit No. 2. I would be glad to look them up. I happen to have those exhibits and don't have our own books here. Those have been checked against our books.

Q. Eide Exhibit No. 2?

A. Wood Exhibit that was presented yesterday. As I [fol. 6041] say, these have been checked against our books and I happened to notice that they were on there. Plant displaced, 1931, Line 19 of Wood Exhibit No. 2, $13,744,719.

Q. What year were you reading?

A. 1931. It is Line 19, total of plant displaced, Wood Exhibit No. 2. It is the third sheet. There is 1-A and 1-B and then the third sheet, sheet 2. Pardon me, it isn't numbered. 19 is the last item of the detail. The year 1930 that figure is $13,362,931.

Mr. Burr: Comes directly below line 19?

The Witness: Yes. The line isn't numbered, but it would be 20.

Q. Now, you referred to the Akron Central Office retired in 1930?

A. Yes.

Q. Do you know what the amount of that displacement was in dollars as related to the whole account 221?

A. I believe I can find that in just a minute from the figures I used yesterday. Akron was $1,125,619.

Q. That was manual equipment displaced by dial equipment?

A. Yes, sir.

Q. When was it determined to displace that by dial equipment?

A. About three years previous to that time.

Q. About three years?

A. Yes.

Q. So that in 1925 it was not in contemplation of the Ohio Bell Company to replace the manual equipment with dial equipment?

A. Not as a definite program. We would expect at that time probably that it would be replaced ultimately.

Q. Do you know what the observed depreciation in that Akron Central Office was in 1925?

A. No, I don't know what the——

Q. Or in any year up until it was displaced?

A. No, sir.

[fol. 6042] Q. How many central offices equipped with manual equipment in Dayton were retired in 1931?

A. There were the downtown offices, one east and one west side office.

Q. Three.

A. Four. There are two downtown.

Q. How many central office exchanges are there in Dayton?

A. At the present time?

Q. Yes, sir.

A. Still four.

Q. There was a complete change in Dayton of all exchanges?

A. The entire exchange was changed to dial.

Q. Do you know what the per cent condition of that plant was in '25?

A. No, I don't.

Q. Or in any of the years up until the last year?

A. No. The '25 I believe is on record.

I believe the '25 is on record, but I have not the figure in mind.

Q. And have you observed any difference in operating cost or maintenance cost in Dayton since the installation of the dial system?

A. The maintenance cost of the dial are higher and the traffic expense lower.

Q. What is the over all difference?

A. Lower.

Commissioner Geiger: Do you know by what per cent it is lower than the former operation?

The Witness: I haven't the exact figures.

Commissioner Geiger: Well, can you give an approximate figure?

The Witness: I would like to be clear as to just what expenses we are considering. Am I considering the maintenance and——

Q. Maintaining and operating the dial stations in Dayton?

[fol. 6043] A. Maintaining and operating? I might make some rough calculations, but of course the exact figures are available. As a very rough estimate I would say those two items might be in the neighborhood of three-quarters as much.

Mr. Burr: Three-quarters what?

The Witness: The maintenance and traffic operating the dial might be in the neighborhood of three-quarters of the Manual. That is a very high spot figure. As I say, I have the figures much more accurate than that.

Commissioner Geiger: In other words, you might estimate roughly at this time that the installation of the dial service in place of the old service resulted on the two items of maintenance and traffic in 25 per cent reduction in cost?

The Witness: Yes.

Q. Can you give us a rough ratio of the cost of the dial equipment as compared with manual equipment?

A. That varies a good deal as between step by step and panel equipment.

Q. Which equipment was installed at Dayton?

A. Step by step. And as to the amount of B boards and so forth involved in the manual.

Q. Well, now, there is a change over, there is no manually operated central office in Dayton, is that correct?

A. No.

Q. The change over was complete?

A. Other than the toll board. And what is known as a D. S. A. board, dial service board which is quite small.

Q. You named the average service life of three of the stations, manual stations in Dayton. What was the average life of the fourth?

A. I gave three figures, considering the two downtown offices as one office. They serve the same area.

[fol. 6044] —. Which figure referred to the two downtown offices?

A. The realized life of 10.1 years.

Q. That was the average for the two downtown offices?

A. Yes, sir.

Q. Now, have you got the figures of the charge to depreciation reserve involving displacement of those four offices?

A. Shall I give you total of the four? About 1,650,000 in round numbers.

Q. Now, can you give us the addition to fixed capital in the central office account represented by those four offices?

A. I haven't that with me. It can be very readily obtained.

Q. All right. Will you furnish that?

A. You want the cost of the entire dial system which replaced these offices?

Q. Exactly.

A. Yes, sir.

Mr. Burr: Now, to which offices are you referring?

Mr. Herbert: Dayton.

The Witness: All of the Dayton offices?

Mr. Thompson: Four Dayton offices.

Commissioner Geiger: What is the purpose of that, Mr. Herbert?

Mr. Herbert: This witness has testified to the necessity of a high depreciation reserve annually allowance up until the last year and then they anticipated, I think the word is expectancy of reduction in the rate of retirement of plant from now on. Now, I am seeking to find out whether or not there is any benefit to the subscriber by the displacement, taking Dayton as an example, all of four offices with an

average life of 8.7, 4.2 and 10.1 years that went into this appraisal in 1925 at somewhere around 19 per cent condition [fol. 6045] and which were displaced in the depreciation reserve in their entirety six years later and replaced by an addition to fixed capital, the amount of which is yet to be furnished by them. I want the Commission to be advised as to the relation of those two figures and the general effect it has on operating cost. In other words, what it means to the subscriber. You are getting it from the standpoint of the telephone company up to now. I want the commission to get a picture of what it means to the subscriber in one particular area. This area has been advanced as one of the reasons why they are now able to reduce their depreciation reserve annual allowance rate.

Commissioner Geiger: I don't yet see what that has got to do with the rate that was properly charged in 1925. Are we going to open this question again to determine whether or not it was good policy upon the part of the company to change over from the manual phone to the dial phone?

Mr. Herbert: That is becoming an important question. At least there is an article appeared on it in the Public Utilities Quarterly which gives a study of the results obtained from an average selection of companies.

Commissioner Geiger: The results, the benefit to the subscriber, what results do you mean? The benefits to the subscriber?

Mr. Herbert: Well, I didn't intend to get into an argument at this time on it, Your Honor, but the point is this, there have been replacements, the cycle of replacements in the Ohio Bell system in the past ten years has been far in excess of what I contend should be a normal replacement cycle. They have themselves now advanced a whole set of [fol. 6046] cases where they have scrapped central offices which were supposed to be within 19 per cent of perfection as an operating plant and which they carried at that valuation and seek a rate of return on, which they have scrapped and charged against their depreciation reserve account, have replaced it with entirely new equipment and they have offered nothing to show the saving in operating expenses, which is the only place the subscriber can hope to profit.

Now, if they are replacing plant which is in exceptionally good condition, according to their own testimony, all the time by this dial equipment and are not proving anything in this record to show that there is something to be gained

by the subscriber in that replacement, then I submit that theey are making high charges to depreciation reserve, that is, they are taking a high percentage annually out of their gross earnings, setting it over into their depreciation reserve account, and keeping that shrunk down to correspond to nine or ten or eleven per cent of their book value all the time by charging against it these big allowances as shown on—not allowances, but these big appropriations as shown on Wood Exhibit 2, displacements of plant, and have constantly been rebuilding a plant which is newer all the time in this period of time, but which doesn't reflect to the benefit of the subscriber at any point because their maintenance and operating costs have apparently not decreased accordingly.

Now, they come to the 1932 year and tell us that they have reached the point where they don't expect the cycle to continue. Now, I am trying to take this one particular example of Dayton, which was advanced by this witness, [fol. 6047] and follow it out to get all the facts on it.

Commissioner Geiger: Well, the only thing that occurs to us, Mr. Herbert, are you opening up a new field for investigation of this Ohio Bell Telephone case that everybody wants to settle up?

Mr. Herbert: Your Honor please, I am following the road they have started off on yesterday.

Commissioner Geiger: Maybe they have started on the wrong road. You are asking now that he furnish you——

Mr. Herbert: One figure.

Commissioner Geiger: What is the figure?

Mr. Herbert: The cost of the dial equipment that was put into the fixed capital account insofar as it was involved in the exchanges in Dayton. They put in here yesterday Brett Exhibit 8. On Sheet 12 of that exhibit is account 221, central office telephone equipment, $38,097,000. I want to know what portion of that is represented in this new dial equipment that went into Dayton that in its installation caused a displacement of manually operated central offices, causing a charge against the depreciation reserve account of $1,650,000.00. He has testified to the Akron manual plant being displaced at a cost of $1,125,619.00 charged against the depreciation reserve.

Commissioner Geiger: Would it possibly connect up a little bit better, Mr. Herbert, if you would direct your question to him on cross-examination with reference to those

figures; ask him how much of that represents the cost of installing the dial system? However, if you have that in mind, go ahead. The only thing we are anxious to do is not to begin or to continue to enter into fields of investigation [fol. 6048] in this case. We won't get through for a hundred years if we keep investigating everything that happens to be new. I don't think I will be interested in it any longer. We don't want to circumscribe you at all, Mr. Herbert, but let's keep it down within reasonable limits, if possible.

Q. With reference to the central office at Akron that you testified to as being displaced in 1930, was I correct in stating to Mr. Geiger that your charge against depreciation reserve was $1,125,619.00?

A. That was the amount of plant displaced.

Q. Will you also furnish us with the amount of dollars represented by the plant installation?

A. At Akron, the same as Dayton.

Q. Will you furnish us the same thing for the Franklin office in Columbus and of the Eddy office in Cleveland? The dollars charged against the depreciation reserve account and the dollars added to the fixed capital account?

A. Which, the plant displaced or the amount charged against the reserve?

Q. The amount charged against reserve?

A. Those will not agree with the figures which I gave you. The figures I gave you were plant displaced.

Commissioner Geiger: Well, could you tell us generally whether the money required to replace the old manual phones by your dial phones came out of the reserve for depreciation or was it new money brought into the company by the sale of stock or bonds?

The Witness: Part of it came from the reserve and part might be money. The amount taken out of the reserve would be the loss in the old retired property and not neces- [fol. 6049] sarily the amount which it cost to build the new property. If that was greater, there would have to be some additional money over and above what the reserve provided for. The reserve only takes care of the property retired and they may not be and generally isn't the same as the cost of the new plant built.

Commissioner Geiger: Well, do you mean to say by that that out of your reserve fund for depreciation you take as much money as is represented by the retirement of the old

plant, to which you add new capital, making up the difference in the cost between the money in the reserve and the total amount expended for the new plant, is that what you mean to say?

The Witness: That is what it amounts to, Your Honor. The dollars aren't just isolated in that way, but the amount which we charge against the reserve on account of displacing Dayton central office, for instance, is only the original cost of those offices less salvage plus cost of removal, and does not depend in any way upon the cost of the new plant which we build to replace those.

Commissioner Geiger: Well, putting the question concretely in the way that I can understand it, are you building the new plant with the improved equipment out of what you have set aside as a reserve for depreciation in whole or in part? If it is in part, what proportion of it is out of the reserve for depreciation and what part of it is new money?

The Witness: It is provided for in part by the reserve and that part is the part of the new cost which equals the loss in the old property which we replace.

Commissioner Geiger: Now, in the event you build a new building for the accommodation of your new plant, is the [fol. 6050] money for the construction of that new building taken out of your reserve for depreciation or is it taken only in part of the reserve for depreciation and in part out of new capital?

The Witness: Just the same as the central office that I cited. The reserve provides for the loss in the old building and that portion of the new building is provided for in that way.

Commissioner Geiger: So that if a person might have a notion that the new buildings were constructed out of the reserve for depreciation in that you had more reserve than should properly be put in that fund, they are not correct in that? That is, the difference between the old building and the new building is gotten up or provided for by new capital?

The Witness: I don't know how it is financed in every case. It might be taken out of any funds that were available. But there is nothing set up in the depreciation to provide for increasing the size or value of the plant; we charge the depreciation only enough to retire the old property.

Q. Now, do you know the reason for these changes to dial equipment in the Akron and Dayton exchanges and in the other two that you cite, namely, Columbus, Franklin office and Cleveland Eddy office?

A. Do I know the reason?

Q. Yes.

A. Primarily growth exhausting the old offices.

Q. All right. Then will you also furnish me with the table of the average number of subscribers connected up to those offices for each of the years 1925 to 1932? I believe you have testified that the Dayton change over was in 1931, the Akron change over was in 1930 and Franklin office was 1930 and the Eddy office in 1932. You give as the reason [fol. 6051] the exhaustion of the existing plants to serve those subscribers. By that do you mean that the plant was worn out?

A. No, sir, I mean that we got to the point where we couldn't, economically, make further additions to take care of growth and it was the opportune time to go to dial and we had to do something.

Commissioner Geiger: Well, you can state this now; having realized the difference in the demand for your equipment between 1929 and 1932, had you anticipated the depression you wouldn't have made the change? Was it necessary to make it except to accommodate what you thought would be the natural, normal growth of your business?

The Witness: Yes, sir.

Commissioner Geiger: And if the natural, normal growth of business didn't occur on account of the depression, you still could have been operating economically and properly and efficiently with the old system, is that so or not?

A. You say if the depression had not occurred?

Commissioner Geiger: The depression cut off that anticipated growth of your business, did it not?

The Witness: Yes, sir.

Commissioner Geiger: And if it hadn't occurred, you would have had plenty of equipment to handle the present business? All right.

The Witness: In some cases these offices might have provided for the subscribers if there had not been—in the absence of growth.

Commissioner Geiger: I didn't know exactly why Mr. Herbert wants what he has asked for. You want to show

simply that the number of subscribers have not increased over 1929?

[fol. 6052] Mr. Herbert: I am trying to get from Mr. Wilson the same kind of a table as appears on Wood Exhibit 20, only with reference to these particular exchanges he testified to on direct examination. I don't believe it would involve any great effort to obtain that, would it, Mr. Wilson?

The Witness: What year did you ask for? There might be some area changes which might complicate getting it by the exact same offices. There might be some difficulty where we made area transfers and changed the areas of the central office.

Q. The first four lines of Wood Exhibit 20 are made up from consolidated reports of the company, are they not?

A. I am not familiar with that exhibit offhand. Yes, that is on a company basis, of course.

Q. I mean that detail that presents those figures would also disclose what I have asked for, wouldn't it?

A. You are asking for it by central offices?

Q. Yes, sir.

A. I say a central office might not serve just the same area in succeeding years; there might be some adjustments there where we had transferred an area from one central office to another as between two years, but except for that the detail would be available.

Q. Well, so far as Dayton is concerned, it has included the whole Dayton area?

A. Yes. That would be readily obtainable.

Q. And what office is included in Akron, or exchange?

A. Akron would be practically the same thing as Dayton.

Q. Then would you get it for us for those two?

A. Yes. Which were the years again you asked for?

Q. 1925 to 1931 inclusive. Are you able to tell us how [fol. 6053] many of your central offices in the Ohio system have been changed over from manual to dial system.

A. How many have been changed? Central offices?

Q. Yes.

A. I would have to figure it.

Q. I am just trying to—are you able to approximate what percentage?

A. Oh, what percentage you say?

Q. If you can't give us the number.

A. Well, central offices, it would be not so great a percentage because we have a great many small offices which were not changed.

Commissioner Geiger: To what size office do you apply the change from manual to dial?

The Witness: It doesn't go by size entirely, except the small offices are less likely to become congested.

Commissioner Geiger: What do you call it, 5000 subscribers, 1000 or what?

The Witness: We would put a dial in 5000 if we were forced to provide for additions, possibly, but I would say it happens that the offices we have been required to replace have in most part been larger offices. I could think a few minutes, or I mean just make a calculation from my memory and tell you approximately how many have been changed.

Commissioner Geiger: Well, hasn't the primary purpose in the change from the hand phone to the dial phone been to put into effect economies which would enable you to operate the plant at less cost?

The Witness: Yes, sir. It is the combination of the two things that gives the economy. If an office was adequate in every way it might not be economical to change it, but if you have to spend a considerable amount of money to prolong [fol. 6054] the life of that office, then the most economical thing to do develops to be installing a new dial office.

Commissioner Geiger: Well, assuming that you do have economies where you change from the manual phone to the dial phone, who gets the benefit of those economies, does the subscriber get the benefit of it by reduced rates?

The Witness: If those economies resulted in it being possible to give the service at a lower rate, yes.

Commissioner Geiger: But that never yet has resulted so far as you know; you have given no reduced rates in the last ten years?

The Witness: That has not resulted. One reason for that is one I mentioned, that in many cases we would have had to spend considerable money if we hadn't gone to dial, and that is what proved the thing in. As we are forced to put a large addition or build another manual office, our cost of giving service would go up, and we may be able to avoid that increase by going to dial, and the economies of dial offsetting the expenditures we would have had to make to expand our facilities on a manual basis.

Commissioner Geiger: In other words you look at it this way, that had you not gone to dial but were compelled to expand your manual service, you would have had to put up the rate?

The Witness: Yes, sir.

Commissioner Geiger: And that establishing the dial service and disbanding the manual, you have been able to keep your rate down to your subscribers?

The Witness: Yes, sir.

[fol. 6055] Commissioner Geiger: You haven't been able to reduce?

The Witness: Yes, sir.

Commissioner Geiger: Is that your position?

The Witness: Yes, sir.

Commissioner Geiger: All right.

Q. You testified that a number of buildings were retired in connection with these central office replacements. Do you have reference only to the Dayton, Akron, Cleveland Eddy and Columbus Franklin Exchanges?

A. Wherever a central office was retired the building was retired.

Q. Well, were there others than those which you enumerated?

A. Yes, there was an office in Toledo, there was an office in Columbus, which has been retired about this time. There is a replacement in Cleveland that I haven't mentioned.

Q. Which one?

A. Prospect office in Cleveland was retired, fairly recently.

Q. Well, in the case of these retirements, all of them that you have named, did the replacement consist of a new building on another site?

A. Yes, sir. Let me just check that. That is true in every case except Eddy, Cleveland, where the building is on practically the same site or adjoining building.

Q. Do you know whether the company has disposed of the land involved in those old sites?

A. Columbus Franklin it has not; for the most part that has not been disposed of.

Q. And that property still stands in the figures of the company as they have been presented here?

A. That is, it is transferred to another account, 111 account I believe it is, non-operating property. When it is

[fol. 6056] no longer useful for telephone purposes it is not left in the telephone plant. I meant it had not be sold, I didn't mean it hadn't been retired from the working property.

Q. Did you know the value offhand of the buildings as they stood in the 1925 appraisal which has been destroyed and replaced by these new buildings at the points you have mentioned?

A. No, I don't know that offhand.

Q. Do you know the value, the additions to account 212 that have been made by these buildings, by the erection of these buildings since 1925, in dollars?

A. No, I don't offhand. I believe that is what I was going to get you in the case of additions.

Q. What is the reason that leads you to conclude that the majority of the remaining manual offices will not require replacements in the near future?

A. We have replaced the majority of those where the need for replacement was most pressing.

Q. You don't contemplate making any changes in manual offices for some time?

A. Oh, there will be one from time to time.

Q. You don't contemplate displacing any more manual offices by dial offices for some time to come?

A. There will be an office from time to time. We haven't a definite program now except to complete the Columbus conversion.

Q. You have no definite program except to complete the Columbus change?

A. And one office in Cleveland, but there are offices that will require replacements from time to time and we will set up definite programs as soon as we see the need for the replacement approaching. By a definite program I mean that we will determine at such and such a date we should [fol. 6057] have the new office in service, and by saying that we haven't that I don't mean that from time to time we won't be replacing additional manual offices, but not at this rate.

Q. When you replaced the Dayton offices with dials, what time did you start planning that?

A. The definite plans I would say in '28.

Q. The average life of those Dayton offices had all been built about 10 years before or more?

A. Yes.

Q. How far ahead have you planned in your Dayton dial offices?

A. How far ahead have we planned?

Q. Yes.

A. We plan the initial building, ordinarily, on a minimum period of eight years, and the central office equipment approximately three years.

Q. Then you plan an addition in 1938 for the Dayton central offices?

A. I don't recall how that worked out exactly in Dayton. I said a minimum period. It might prove economically, as the floor space is laid out, that that would be twelve, or a longer period, but say we are building a one story building, we wouldn't contemplate an addition any earlier than eight years.

Q. Don't you make a specific study and plan ahead on each new dial system office that you put in?

A. Yes, sir.

Q. And that runs for how many years, as a rule?

A. Well, we forecast 20 to 40 years ahead in our entire picture.

Q. And on each individual exchange?

A. Yes.

Q. And you have those studies as to each individual exchange, do you not?

A. Yes.

Q. And you build your depreciation rates on those, having regard to those forecasts, do you not?

[fol. 6058] A. In the case of central office, that is just the way we make our depreciation rates, to forecast the additions and arrive at the expected average life from that. I thought you were simply considering the construction of the initial plant.

Q. So that in this period 1922 to 1932 you have largely left the plans that you had made on those manual offices in that earlier period?

A. Yes, sir, the plans, those turned out to be much more short lived than the original plans would anticipate, because the growth accelerated a great deal.

Q. And you have managed to maintain your depreciation reserve accounts at an average keel during this period, although your life expectancy of all these classes of plant

has been greatly shortened from what it was when you first established the various percentages in these various accounts?

A. I would say that our reserve should have grown had it not been for that.

Q. Does depreciation rates contemplate reimbursement to the company for the cost of the property retired, or are they intended to provide funds to replace the retired property with other property, regardless of whether the investment in the new property would require more or less money than the existing property represents?

A. The former is correct. They are intended to amortize the original cost of the property, the cost of the original property.

Q. If the methods of determining depreciation rates which you have described had been used by predecessor companies, Central Union and Cleveland Telephone and Ohio State and other purchased companies, there would have been created in this company a greater depreciation [fol. 6059] reserve at the time it formed in 1921, would there not?

A. What was the first part of that question?

(Question read.)

A. That is a difficult question to answer. I imagine they did use approximately the same methods, although they didn't have possibly as detailed mathematical processes as have been developed for determining the most accurate rate.

Q. Well you know for a fact, don't you, Mr. Wilson, that there was no depreciation reserve fund brought over to the old Ohio Bell from the Central Union?

A. Our reserve is lower on that account. That is correct.

Q. And your reserve today is also lower on account of the fact that but six and a fraction per cent of the book value of the old Ohio State plant was set up on the Ohio Bell Company's books for depreciation reserve; is not that a fact?

A. I don't know what the two——

Mr. Herbert: Read the question.

(Question read.)

A. I don't know just what the reserve funds were for that property at that time. Offhand, of course, that looks low.

Q. Isn't it a fact that the depreciation reserve of the present Ohio Bell Company has absorbed depreciation accrued on purchased properties prior to the date of the acquisition of those properties by the Ohio Bell Company?

A. Where no reserve was taken over with the properties the initial retirements would come out of the reserve of the Ohio Bell, yes.

Commissioner Geiger: Does your schedule somewhere set up your present reserve for depreciation is? Do you know approximately what it is?

The Witness: The reserve on our books at the present time?

[fol. 6060] Commissioner Geiger: Yes, about $20,000,000?

The Witness: Yes, approximately that.

Mr. Burr: Eighteen.

Commissioner Geiger: And what is the annual per cent of reserve for depreciation upon your property?

The Witness: That figure would be in the neighborhood of 12 per cent.

Commissioner Geiger: What?

The Witness: That figure would be in the neighborhood of 12 per cent.

Mr. Thompson: No, I think the Commissioner intended to ask you what was the annual charge on account of depreciation.

Commissioner Geiger: Correct.

The Witness: Oh, the precentage of the value of the property that we set aside as reserve for depreciation annually?

Commissioner Geiger: Yes.

The Witness: That is a little over four per cent.

Mr. Herbert: That is the current?

The Witness: Yes, that is the current 1932 rate.

Commissioner Geiger: And what is your current charge for maintenance?

The Witness: That is something over four per cent also.

Commissioner Geiger: Now, you have estimated a reserve for depreciation of about $18,000,000?

The Witness: Yes, sir.

Commissioner Geiger: Is that correct?

The Witness: Yes, sir.

Commissioner Geiger: And on what per cent reserve for depreciation was that built up, is your present per cent equal [fol. 6061] to, higher or lower?

The Witness: It is lower than we have used in recent years. I would like to make an explanation of my answer on the maintenance percentage. I remember that appeared on one of the Wood exhibits, and he developed a percentage of maintenance toward depreciable property which is higher than the percentage to total property. There is some depreciable property—or some non-depreciable property which does not require depreciation expense under our method of accounting, but it does require maintenance, and for that reason I believe it showed slightly over five, while it would be under five if applied to the total property.

By Mr. Herbert:

Q. Had you made the appropriation to the depreciation reserve account in 1931 on the basis that you will do it for 1932, you would have set aside approximately $2,000,000 less than you actually did; is not that correct?

A. Yes, sir, approximately that.

Commissioner Geiger: Well, would that go back to 1925? As I understand it, since 1931 you have established a new per cent for reserve for depreciation which is now less than it was prior to 1931; that is correct, isn't it?

The Witness: Yes, sir.

Commissioner Geiger: Now, in 1925 you had a reserve for depreciation. Could you state whether or not if you then set aside the per cent which you now are setting aside there would have been sufficient to cover depreciation in the year 1925?

The Witness: No, sir.

Commissioner Geiger: In other words, were you setting [fol. 6062] aside a little too much for depreciation in 1925?

The Witness: No, sir, I don't consider that we were.

Commissioner Geiger: Well, it produced a surplus of $18,000,000.

The Witness: Of course, that eighteen million has not been accumulated between '25 and '31.

Commissioner Geiger: Where was it accumulated, prior to?

The Witness: Some of it was there when the company was formed, a considerable portion of it, and there has been

a slight increase in various years from that time on. We have statements which show what the reserve was in '25. But it was necessary that that reserve should be growing since '25 in view of all the new property which we have added since '25 which has not yet, a great deal of it, the great majority of it, reached the retirement period. We have made very large plant additions in '25, '6, '7 and so forth.

Commissioner Geiger: That wouldn't affect the per cent depreciation, would it? The per cent would be the same, even though you have more property; result in a greater sum of money, of course, because your property was greater?

The Witness: The percentage of depreciation expense would not change because of that, but the reserve should increase because of the accruals on that new property would not be needed in the first few years of the new property's life in most cases, and I don't attribute any increase there is in the reserve to the rates being too high for any period. I explained yesterday——

Commissioner Geiger: What I am trying to get to you, [fol. 6063] you no doubt know it, that the Supreme Court has said through Judge Hughes that the experience of the company in the past in reference to reserve for depreciation might be used as a guide for what a Commission may allow in the future, and naturally we would like to know whether in 1925 and the years immediately preceding that and subsequent to it, you were really setting aside more in your depreciation fund than you needed, and that there was an accumulation of a reserve for depreciation over and above the actual depreciation?

The Witness: No, sir, I think the considerations at that time were decidedly different than at the present, and required higher rates than we require at the present. I brought out yesterday some of the reasons for that.

Commissioner Geiger: All right. Now, you have made a reduction in your reserve for depreciation or your per cent for your depreciation since 1932, in 1932?

The Witness: Yes, in 1932.

Commissioner Geiger: And you think it is now adequate, although it is less than it was prior to 1932?

The Witness: Yes, sir.

Commissioner Geiger: Well now, could you tell us whether or not we could not safely extend back through the years prior to 1932 within 1931, '30, '29, '28, the reserve for depreciation which you, yourself, have said is sufficient for the

years subsequent to 1932? Why the change there? Oh, in other words, let's put it this way, if in the years subsequent to 1932 you are able to get along with a less per cent for depreciation, why couldn't you have gotten along with a less per cent in the years prior to 1932?

[fol. 6064] The Witness: Because the conditions in that period were decidedly different. There was a rapid growth which we don't expect to continue at that rate, not predicting that the depression will last forever, but we don't expect that high rate of growth, and putting in the very dull times at the present, it will average up a great deal less.

Commissioner Geiger: Now, right at that point; when you would admit possibly that the rate set aside for depreciation would depend upon your demand for expansion of your plant?

The Witness: To some extent, that is an important factor, yes, sir.

Commissioner Geiger: Well then, isn't is simply resulting in this, when you get down to fundamentals, that you are building a new plant out of reserve for depreciation and that is what you are really doing, constructing an entire new plant out of an excessive reserve for depreciation?

The Witness: No, sir, it is not because we have to build larger plants to take care of the growth that we require the greater depreciation expense; it is because the old plant, the existing plant will not live as long a life and therefore have to be amortized over a shorter period, these manual offices that just grew until the switchboards were pushing against the end of the building, that condition came about in a shorter period than we at one time anticipated, because of the rapid growth, and we therefore had to amortize that building and the equipment in it over a shorter period of years.

Commissioner Geiger: You are talking now about amortization against reserve for depreciation?

The Witness: Well, by amortization I meant we had to [fol. 6065] set aside in depreciation expense enough money to write the building off in a shorter period of years, and the additions which we made just two or three years prior, with the rapid growth we had to make additions right up to the last year of replacement, and that property, of course, had an extremely low life.

Commissioner Geiger: Wouldn't you be able to say that since 1929 your present reserve for depreciation, which is

less than it was in 1929, would have been sufficient for those years back as far as 1929 at least?

The Witness: No, sir, I couldn't say that. There is possibly a lag, or the retirements can't stop immediately the growth stops, you are not—we are probably cutting an office in service today that the manual equipment might have lasted, but we have provided the new office, and retirements as shown on Wood Exhibit 2 have continued right up to the end of '31 at a very rapid rate, and the drop came rather suddenly.

By Mr. Herbert:

Q. Mr. Wilson, had there been adequate funds set aside in the depreciation reserves and carried over on to the books of this company from these purchased properties that went to make up the Ohio Bell present company, do you say that the rates of depreciation reserve, percentages used by the company from 1925 down to last year, would have been necessary to maintain the depreciation reserve account?

A. You say if greater reserves had been taken over with the purchased properties?

Q. Yes.

A. That would not affect our rate. In making studies of service lives, in arriving at our depreciation life, we consider the entire service life of the elements of property, [fol. 6066] regardless of whether they have changed hands or any part of them have changed hands since their service life began. For instance, in our service life of a pole, we have a record of the dates that all poles were placed, and at the time that they are retired we determine that date and arrive at the life of each pole. Now, if there was a pole set, say by the Springfield, Xenia Company in 1910 by them and we purchased it, say in '22 and we had occasion to replace that pole in 1930, we would consider in our historical data that that pole had had a life of 20 years.

Q. Yes, but——

Mr. Burr: Let him finish.

Mr. Herbert: I am going to let him finish, but he is not answering my question, Mr. Burr, and I am going to ask him.

Q. In 1930 is not the time that you set the depreciation rate for 1922, is it?

A. No, sir.

Q. You said in 1930 when you replace that pole, from that historical data you make a rate?

A. I was simply making an illustration as to how we make these studies and you can apply it to 1920 or 1900 or any dates that you might see fit. Our rates are no different because some of the property is purchased. In other words, our rates are the same as if all of the property had been built new by the Ohio Bell Telephone Company and went back to the time that all these properties started. There is nothing in our method of figuring depreciation which caused the rates to change because of property being purchased.

Q. But if you took over two plants which amounted to half of the plant which you then owned at any particular [fol. 6067] time, and had a depreciation rate fixed which amounted to 10 per cent of your fixed plant, depreciable plant, as of that time, and when you took over these two companies' plants with no depreciation reserves, and added those companies to your fixed depreciable plant, you would have to raise your depreciation rate in order to provide an adequate amount in your depreciation reserve for the immediately ensuing years to maintain that depreciation reserve anywhere near in a comparable way that you had previously, would you not, Mr. Wilson?

Mr. Thompson: To which question we object for this reason, the witness has said that the depreciation, the annual charges for depreciation are just the same with respect to this purchased property as they would have been if the Ohio Bell Telephone Company established it. Now, the net result of that situation is that the annual charges for depreciation are correct, based upon the service life of this plant, and if any loss is occasioned at all, it is a loss which is occasioned to the company which it has got to eventually absorb by way of a charge to surplus. It can't go into the rate on what this witness has said.

Commissioner Geiger: Objection overruled. Read the question.

(Question read)

Mr. Thompson: May I add this to my objection, that the witness has testified that is just exactly what the company hasn't done, and he, therefore, assumes what the witness has already said was not true.

Commissioner Geiger: Objection overruled. Answer the question.

[fol. 6068] A. The answer is that we would not raise our depreciation rates. Now, under certain cases not to raise them might result in something happening to the depreciation reserve, but that is not the way we set rates and we would not raise them to prevent something happening to the reserve.

Commissioner Geiger: Well, the net result of your answer is that you did not, as a matter of fact, increase your rate for depreciation when you bought new plant, is that correct?

The Witness: Yes, sir.

Commissioner Geiger: You retained the same per cent for reserve for depreciation after the new plants were bought and absorbed as before?

The Witness: That is certainly true of any recent purchases, there was no change in—from '22 to '28 there was no change in rates. Purchases were made in that period.

Mr. Herbert: That is all.

Redirect examination.

By Mr. Burr:

Q. Mr. Wilson, with respect to Judge Geiger's question as to the proportion of plant constructed out of reserve, how much of the entire plant could have been built out of the reserve?

A. The total reserve, roughly estimated at 12 per cent of the plant——

Commissioner Geiger: I didn't get that answer.

The Witness: I say I gave an estimate of 12 per cent as the percentage of reserve to total plant, so certainly not more than 12 per cent of our plant can have been built out [fol. 6069] of the reserve. I understood his question to pertain to the way we figured depreciation and not the total amount of plant, but that was the answer to that.

Q. Now, with respect to dial conversions, what sort of an operating condition might you have been confronted with if you had not substituted dial for manual?

A. If growth had continued, we would have been up against almost an impossible operating condition to take care of that growth if we had not planned these new offices

in advance. The switchboards, as I say, in many cases, were right up against the walls and we had even put in positions in a rather temporary and awkward location in order to take care of growth up to the time of the conversions and rushed some of them to protect the service.

Q. Now, isn't it true that in each case where dial has replaced manual equipment, the management has considered the question from the standpoint of its advisability and hasn't the management determined in each case in favor of the conversion?

A. Yes, sir.

Mr. Burr: That is all.

Commissioner Geiger: Now, may I ask just one question in order to clear up in my own mind? As I understand, you have stated in answer to Mr. Burr's inquiry that you could estimate that 12 per cent of the plant was constructed out of reserves, is that correct, the new plant?

The Witness: That would be—yes, that is all there is in the reserve.

Commissioner Geiger: Well, would 12 per cent—does that include building and the change over to dial?

The Witness: All classes of property.

[fol. 6070] Commissioner Geiger: All classes of property, 12 per cent of new property required to be constructed, whether it be buildings or new plant or change to the dial system, would they construct it out of the reserve for depreciation; is that correct?

The Witness: Only 12 per cent of our total property as it exists can have been constructed out of the depreciation reserve.

Commissioner Geiger: You are talking about 12 per cent of your total plant?

The Witness: Yes, sir.

Commissioner Geiger: Not 12 per cent of the new plant?

The Witness: Yes, sir.

Commissioner Geiger: Well, I would like to know, if you can give me, what per cent of the new cost or the cost of the new plant, of your change over from manual phone to dial phone, or of your new buildings, was constructed out of the reserve for depreciation?

The Witness: I don't think I can answer that question. As I said before, the dollars at which those constructions were made are not identified.

Commissioner Geiger: Well, of course, it is a great deal more than 12 per cent?

Mr. Burr: No.

Commissioner Geiger: 12 per cent of the new construction, not 12 per cent of the entire plant. Can you answer the question or do you understand it?

The Witness: I don't believe I could answer it that way. The securities, of course, of the company, have grown dur-
[fol. 6071] ing that period, the financing. The dollars aren't tagged as to whether they come out of loans or security issues, or out of portions of the reserve.

Recross-examination.

By Mr. Herbert:

Q. Mr. Wilson, when you stated 12 per cent, you arrive at that by relating the present depreciation reserve account to the present fixed capital, is that right?

A. Yes, sir.

Q. The figures are correctly shown on Wood Exhibit 12, are they not, showing $62,964,000 having been set aside for depreciation reserve since 1921?

A. I assume so.

Q. At the bottom of column 4. Well, new plant could have been built out of that entire amount, could it not?

A. That is to reimburse the company for the money they invested in property which no longer exists.

Q. I say there was nothing to preclude the company from using that entire amount to build new plant? You were asked by Mr. Burr what per cent of the plant could have been built out of reserve, I believe was his question?

A. Yes, sir.

Q. And you answered 12 per cent?

A. Yes.

Q. I am asking you, is it not a fact that new plant could have been built out of that entire $62,964,000?

A. Well, there again I say the dollars aren't tagged as to what they are used for, but the purpose of these dollars that are not now in the reserve is to reimburse the company for the property which has been consumed in the service of the public.

Mr. Herbert: That is all.

[fol. 6072] Commissioner Geiger: Let me ask you another question, will you, please? Turning to Mr. Wood's Exhibit No. 14, which shows the difference between per cent of reserve set aside by the company for the different years, I observe that there is a decrease of reserve between the year 1931 and the first half of 1932, then there is a further decrease since July 1st, 1932, to date. How did you conclude that the reserve for depreciation in the first six months of 1932 should be higher than the reserve for depreciation for the last six months of 1932?

The Witness: The picture was changing very rapidly at that time, Your Honor, and we had a more complete picture a little later in our studies than we had at the beginning of the year.

Commissioner Geiger: Well, did you find this, that after the experience of your reserve for depreciation in the first half of 1932, that you could then say that had you made a greater reduction at the beginning in 1932 you would have had enough, that is, that you have reserved for the first six months of 1932?

The Witness: That might go back a few months, Your Honor. There is possibly not quite that much difference between the first half and the second half.

Commissioner Geiger: I think your largest decrease was in the item of 38 from 20 per cent for general tools and equipment in the first six months of 1932 to 17 per cent for the last six months.

The Witness: Yes, sir. That is a rather small item. I would say that——

[fol. 6073] Commissioner Geiger: Well, possibly that is not the greatest. All right. But in other words, you found that after you had proceeded in 1932 for a period of six months, that the reserve that you set aside for depreciation at the beginning of 1932 produced a sum greater than required, and you reduced it the second time?

The Witness: It wasn't determined in just that way, Your Honor, but additional data which we analyzed subsequent to our initial study, and the conditions prevailing at that time led us to make these figures from our final consideration—not our final consideration, but I mean later consideration.

Commissioner Geiger: Well, now let me ask just one more question. Could you say generally since 1922 there

has been a decreasing requirement for reserve for depreciation, not in the same general——

The Witness: No, sir, I would say that in the beginning of that period there was an increased requirement, the requirement was increasing.

Commissioner Geiger: 1926 it was increased somewhat.

The Witness: I don't believe there was an appreciable increase made in the rates there, but I believe that there was an increased requirement starting in about that time.

Commissioner Geiger: And was that about the time the rate case started?

The Witness: '25, I believe. There is a slight change in the composite there, Your Honor, but no actual increase in rates prior to '29.

Commissioner Geiger: All right. Any further questions? Any further witnesses?

[fol. 6074] Mr. Herbert: No, sir.

Commissioner Geiger: Now, what is your pleasure, gentlemen? Let's get something definite at short range. Is the matter now submitted to the Commission without further argument or briefs, or do you desire to argue it orally this afternoon or what?

Mr. Herbert: Well, it is the desire of the Attorney General, Your Honor please, to get a brief in at the earliest possible time. It will undoubtedly have to be a skeleton designed to summarize the points to be made out of this Illinois testimony, and out of the material submitted here in the last couple of days as against the evidence and exhibits furnished by the company since the rendition of the tentative valuation. I can't say now that there will be a brief in here a certain date. It will be my endeavor to get that out at the earliest moment. I understand from talking it over with counsel, Mr. Thompson and Mr. Burr, that they want to wait until something has been submitted on our side.

Commissioner Geiger: More wait. The Commission gets the blame.

Mr. Herbert: It doesn't matter to me whether they submit theirs first or simultaneously or afterwards. I am stating that I am going to try to have something in here by the 9th of January. I don't know whether it is a physical possibility.

Commissioner Geiger: Can't you make it the 8th so Mr. Bricker can participate in the decision? Well, seriously,

gentlemen, this case is on everyone's nerves, both the people connected with it, the attorneys on each side, the Commission, the public in general and the rate payer and everybody [fol. 6075] else. Let's bend every effort to get the settlement of it, whether right or wrong, let's do something and get it out of this Commission, send it on its way to somewhere else.

And thereupon the State of Ohio rested.

And thereupon The Ohio Bell Telephone Company rested.

And the foregoing is all of the evidence offered, introduced and admitted on this hearing of this cause.

[fol. 6076] Tuesday Afternoon Session

April 18, 1933.

And thereupon the further hearing of this cause was resumed, pursuant to adjournment, before Hons. E. J. Hopple, Chairman, F. W. Geiger and Charles F. Schaber, Public Utilities Commissioners.

Appearances:

Mr. Thomas J. Herbert, Counsel on behalf of the Public Utilities Commission of Ohio.

Mr. W. George Kerr, Law Director, Cleveland, Ohio.

Mr. John L. Davies, City Attorney, Columbus, Ohio.

Mr. J. I. O'Connor, Law Director, Toledo, Ohio.

Mr. Samuel Z. Cafflin, Asst. Law Director, Toledo, Ohio.

Mr. Thad Thompson, City Solicitor, Zanesville, Ohio.

Mr. R. A. Huntsinger, City Solicitor, Fremont, Ohio.

Mr. L. E. Bradford, Mayor of Centerville, Ohio.

Mr. Fred A. Ross, City Solicitor, Ironton, Ohio.

Mr. M. C. Smith, City Manager, Xenia, Ohio.

Mr. W. A. Miller, City Solicitor, Xenia, Ohio.

Mr. G. H. Doolittle, Director of Law, Akron, Ohio.

Mr. R. A. Hershey, Assist. to Director of Law, Akron, Ohio.

Mr. Morris D. Rice, City Solicitor, Osborn, Ohio.

Mr. James F. Bell, City Solicitor, London, Ohio.

Mr. L. M. Sedgewick, City Solicitor, Mingo Junction, Ohio.

Mr. Thomas F. Joseph, City Solicitor, Martins Ferry, Ohio.

Mr. Russel H. Mack, City Solicitor, Canton, Ohio.
Mr. M. E. Spencer, City Solicitor, Springfield, Ohio.
[fol. 6077] Mr. Henderson Estes, City Solicitor, Middletown, Ohio.
Mr. S. P. Mango, City Solicitor, Niles, Ohio.
Mr. H. S. Beane, Director of Law, Dayton, Ohio.
Mr. Blake Summers, City Solicitor, Marietta, Ohio.
Mr. H. B. Camp, Service and Safety Director, Marietta, Ohio.
Mr. Edward Blytin, Strongsville, Ohio, Village Solicitor for Strongsville and Middleburg Heights.
Mr. D. A. Barth, Mayor, Lockbourne, Ohio.
Mr. M. S. Newell, Mayor, Upper Sandusky, Ohio.
Mr. F. J. Stalter, City Solicitor, Upper Sandusky, Ohio.
Mr. W. B. Davis, Councilman, Centerville, Ohio.
Mr. G. J. Clarks, City Solicitor, East Liverpool, Ohio.
Esther H. Brocker, City Solicitor, Lancaster, Ohio.
Esther T. Pinsky, City Solicitor, Bellaire, Ohio.
Mr. S. A. Decker, Mayor, Barberton, Ohio.
Mr. Clyde Hagey, Councilman, Barberton, Ohio.
Mr. A. B. Castleberry, City Solicitor, Barberton, Ohio.
Mr. C. E. Moyer, City Solicitor, Sandusky, Ohio.
Mr. C. W. Savage, City Manager, Sandusky, Ohio.
Mr. Emmitt D. Graybill, City Solicitor, Massillon, Ohio.
Mr. Bernard S. Keyt, City Solicitor, Piqua, Ohio.
Mr. Robert A. Manchester, Mayor, Canfield, Ohio.
Mr. O. H. Paulin, President of Council, Canfield, Ohio.
Mr. U. F. Kistler, Director of Law, Youngstown, Ohio.
Mr. Cecil Scott, City Solicitor, Salem, Ohio.
Mr. J. A. Kleinfelter, Mayor, New Washington, Ohio.
Mr. Carl A. Weinman, City Solicitor, Steubenville, Ohio.
Mr. Edwin L. English, City Attorney, Urbana, Ohio.

[fol. 6078] STATEMENT OF CHAIRMAN

Chairman Hopple: On the 12th of April of this year, announcement was made to the press by the chairman of the Commission to the effect that a conference would be held at this place this date for the purpose of considering at least some of the aspects of the celebrated and widely-known Ohio Bell Telephone Case. In the same connection, that is to say, the notice, it was indicated that the commission would review the history of the Ohio Bell Telephone Case and discuss with you perhaps, according to de-

velopments that may or may not arise hereafter in this meeting, such procedural steps as would seem wise that should be take- under the circumstances, in order that the case might be brought to a reasonably early conclusion.

On the same day of the making of this announcement, a letter was mailed to the Honorable John W. Bricker, Attorney-General of Ohio, and to some 160 or 162 city solicitors and law directors affected by the instant case. The letter was as follows:

"GENTLEMEN:

"We beg to invite you to attend a conference at these offices in the new State Office Building, Columbus, Ohio, on Tuesday, April 18, 1933, at one-thirty P. M. Eastern Standard Time.

"At this conference, the commission will discuss the considerations and agreements which led to the inauguration of the above case. The Commission, at this time, will also review the history of the case since its inception and discuss procedural steps upon which the case will be brought to a final conclusion.

"Very truly, The Public Utilities Commission of Ohio."

Before proceeding to review, as indicated by the reading [fol. 6079] of the notice or letter or both, before the convening of this meeting which is now in progress, the Hon. George W. Kerr, Cleveland, handed to me the following communication, addressed to the Commission:

"GENTLEMEN:

"The duly authorized representatives of the various townships, villages, communities and municipalities who are vitally interested in the rate case of the Ohio Bell Telephone Company and affected thereby, and which rate case is now pending before this Commission, having met together this 18th day of April, 1933, at Columbus, Ohio, in general assembly, desire to transmit and do hereby submit to the Public Utilities Commission of Ohio the resolution attached hereto, unanimously approved and adopted by said representatives.

"Respectfully yours, W. George Kerr, Chairman."

The resolution reads as follows; I read it, because it may be that some one or more persons present at this meet-

ing were not present at the meeting at which the resolution was adopted:

"Whereas the Ohio Bell Telephone state-wide rate case, bearing Number 3307, has been pending before this Commission since October 14, 1924, and is still pending, and that said protracted delays have resulted in considerable expense to the public of said interested communities and the State of Ohio, and,

"Whereas upwards of twenty million dollars have been collected under bond by the Ohio Bell Telephone Company during the pendency of said case, and which monies are [fol. 6080] subject to return to the patrons of said utility upon an- according to the determination of the questions now before this Commission, and,

"Whereas It is the urgent desire of the representatives of all of said interested communities and the imperative need of said communities to have and obtain the earliest possible determination of all said litigated questions, to the end that the users and patrons of the telephone service may receive immediate relief in these pressing times of financial distress, and,

"Whereas This body of aforesaid representatives has been informed by the Attorney General that in his opinion the record is complete for all of the needs of the commission"—parenthetically, we may not agree with that statement—"in the determination of the valuation, revenues and expenses of the company so that the Commission may make at this time a complete determination of all issues in the case, now, therefore,

"Be it Resolved by this body of duly authorized representatives of the communities and municipalities affected by the Ohio Bell Telephone Company state-wide rate case now pending before this commission and said representatives here assembled for the within purpose, that the duly elected chairman of said body have, and the same is hereby authorized, ordered and directed to present this, a common request of all said representatives of this honorable commission, to-wit: that this commission at the earliest time possible determine and make a finding of each of the issues presented in said rate case bearing No. 3307; and thereafter each and all of the said representatives do hereby pledge their hearty support and loyal prompt cooperation [fol. 6081] in the determining of any details which may re-

quire their respective attention or action or applying the results of the decision and order of this Commission in said case, to their respective districts and communities, to the end that whatever relief may be found justified shall be promptly made available to the patrons and users of telephonic service of the said telephone company in the aforesaid case."

"Respectfully submitted, W. George Kerr, Chairman of the Representatives of the Townships, Villages, communities and municipalities in assembly".

This letter just previous- read and this resolution will be filed and be a part of the records in this case. And before passing to other matters, let me say on behalf of my colleagues and myself we appreciate the tenor and the tone of the resolution.

In what I shall say next, I refer to a newspaper clipping, published in one of the Cleveland, Ohio, papers, in which, amongst other things, it was said:

"They", meaning the representatives of the cities and communities in this state, "will meet at nine o'clock A. M. at Hotel Deshler to decide three points to be submitted to the Utilities Commission at 1:30 P. M., Law Director W. George Kerr tells us today. First, they will decide just what to do to get an immediate decision in the telephone rate case that has been pending for nine years. They are prepared to offer the Commission any additional information it thinks it needs in this case. Second, they will decide whether to demand an emergency reduction now, pending decision on the case. And third, they will decide the method for re-allocating telephone company property [fol. 6082] among the different districts of the State as a basis for fixing rates in the future."

And I say that these three points will be observed in the preparation that I have before me and which I shall read shortly.

This meeting, Ladies and Gentlemen, is for the purposes as announced, and we appreciate your coming and we feel, we sense, in fact, as it were, the desire that you have to accelerate the dispatch, the final ending of a case that has attained almost a ripe old age.

There are circumstances and factors, however, in this

case which you may not recall, and then again, you may recall when your mind is directed to the facts and circumstances; it may be, too, that not many, if any, of the city solicitors and law directors and mayors present here today were in office at the time when this case became a state-wide rate case.

Now, with the foreword that I have just given you, I hope that we may give you a correct picture of this case, and which I am quite sure has become quite obscure and dim so far as the memory and recollection of most of the solicitors here is concerned. I say that with due deference and regard for you, because I know you have other activities, just as we do, not being in daily contact, as we are with this particular matter. It is possible that some of the things that are important have gotten by and out of your minds.

"On account of the time which has elapsed since the beginning of the so-called consolidated case, it seemed to the Commission advisable to review the entire situation in order that the present city solicitors, few of whom have [fol. 6083] been in office throughout the period, may be familiar with the causes leading up to the consolidated case, the conduct of the consolidated case itself and the situation presented by the record thus far made in that case. And I may add that none of the present members of the Commission were in the case at the time when it started.

And an early decision of the case being desirable from all standpoints, the Commission has deemed it advisable to consult with the city solicitors as to the method to be followed in bringing the case to a speedy conclusion.

Considering first, therefore, the history of the case, including the causes which brought about the present consolidated case, the commission submits the following:

"For some years prior to 1921, in much of the territory now served by The Ohio Bell Telephone Company, dual telephone service was furnished by two telephone companies which, for the purpose of brevity, will be called the Bell Company and the Ohio State company. Telephone subscribers in that territory wishing to have complete telephone service were obliged to become subscribers to the service of both companies, and I well recall what that meant in the City of Cleveland. This dual or divided service was

unsatisfactory in that it was both expensive and involved the inconvenience of two telephone instruments.

In April, 1921, the General Assembly of Ohio, by joint resolution, called attention to the advisability of eliminating the dual telephone service, and memoralized Congress to amend the existing Federal law so as to permit competing telephone companies to unify their service by con- [fol. 6084] solidation or merger when authorized by the laws of the states in which their properties were situated. That may be found in Ohio Senate Joint Resolution 24, adopted by House and Senate April 18th and 25th, 1921. This the Congress did by amending Section 407 of the Transportation Act of 1920.

Following that amendment the Bell and Ohio State companies applied to the Commission for leave to consolidate under the name of The Ohio Bell Telephone Company, and after a joint hearing before this Commission and representatives of the Interstate Commerce Commission, leave was granted, the consolidation becoming effective on September 20, 1921.

In the order of the Commission authorizing the consolidation it was provided that in the communities where dual telephone service was being furnished by the constituent companies, the consolidated company should proceed to unify its service after the rates to be charged for the unified service should have been fixed and determined in the manner provided by law.

The Ohio Bell Company proceeded with the work of unification and as rapidly as it was prepared to give unified service in the dual service exchanges, the company applied to the Commission to fix the rates to be charged for that service. And I may add, it was at this point when some of the cases that were later consolidated came into being. Many of the municipalities intervened and contested the company's proposed rates, and this resulted in an accumulation of separate exchange cases, all going forward during the same period.

Under the Robinson law, which preceded the Pence Law, a telephone company or other utility was authorized to make increased rates effective under bond. I call your at- [fol. 6085] tention to that because the bond feature dates from that time. As the Commission reads the Pence Law, that law merely increased the period of su-pension and in other ways strengthened the Robinson law in favor of the

public. It was passed April 4, 1923, and provided, among other things, that rates fixed by order of the Commission might be changed after two years as provided by the act. Accordingly, the telephone company proceeded with its work of unification, and as soon as the unification was completed, made the rates for the unified service effective under the Pence Law. In the case of many exchanges the company's rates for its unified service were not protested and the rates became effective without bond. With respect to some twenty-seven or twenty-eight exchanges protests were filed, the rates were suspended for the statutory period and at the end of that time were made effective pursuant to bond, the rates for each exchange being made the subject of a separate advanced utility rate proceeding. These A. U. R. P. cases, with the exception of Lancaster and Ripley which arose under the Robinson law, were initiated from time to time beginning August 1, 1924. By October, 1924, there was such an accumulation of Pence Law cases, Robinson Law cases, suspension cases and others that as indicated in the order consolidating the cases, separate hearings in each case appeared to the then Commission as inadvisable. The order of consolidation, which I have here, provides as follows, omitting the caption:

"The Commission having heretofore, by formal resolution, determined to enter upon a state-wide investigation of the valuation, rates, charges and services of the various telephone companies operating within the State of Ohio, and [fol. 6086] it appearing that there are now pending before the Commission separate rate cases of The Ohio Bell Telephone Company involving not only the exchange rates in the respective communities and known and designated and numbered on the dockets of this Commission as follows:"

I shall omit the reading of the municipalities that are enumerated in this order. It is a long list and unnecessary to be read, since reference can be made thereto by examining the files of the commission in this particular case.

"but also the toll rates of said company for the entire state."

"And it further appearing that the determination of any so-called 'local rate' does not solve the same question arising in other local subdivision, and that, in all probability, the interest of the public will be best served, that

just and reasonable rates be fixed and determined for the service of said company, not only in said communities, but also in all of the other communities served by said company in the state, and in the state as a whole, to the end that the telephone users in all the said communities shall have the lowest possible rates, exchange and toll, consistent with good service and a fair return to the company.

And it appearing further that in all of said cases now pending before the Commission the important issues are identical such that a single, consolidated case would determine the same for all of the rates, charges and services of said company in the state, at a minimum expenditure of time and money on the part of both the communities interested in said rates and the Commission, it is, hereby

[fol. 6087] Ordered That The Public Utilities Commission of Ohio, upon its own motion, and without complaint or other pleadings, inaugurate and enter upon a hearing and investigation of all the rates, joint rates, tolls, charges, rentals, classifications and practices, service and property valuation, (toll and exchange), of said The Ohio Bell Telephone Company in the State of Ohio, and, to this end, it is further

Ordered That all pending cases, as hereinabove enumerated, involving the above questions, wherein The Ohio Bell Telephone Company is a party, be and they are hereby consolidated in this proceeding, and the evidence heretofore introduced in said cases shall be considered and made a part of the record in this case; reserving the right to the parties interested in those cases wherein evidence has already been offered by any of the parties interested, upon the issue therein involved, to offer such other and further competent evidence as to them shall seem fit. It is further

Ordered That on or before December first, Nineteen Hundred and Twenty-four, and The Ohio Bell Telephone Company furnish to this Commission and file in this cause, as a part of the evidence therein, a complete inventory of all of its property located in the State of Ohio and used and useful and to be used and useful, in the furnishing of telephone service therein, both toll and exchange, classified according to the classification adopted and prescribed by this Commission and the Interstate Commerce Commission for Telephone Companies, and that, upon the filing of such inventory, this consolidated case proceed to a hearing for the determination of the fair value of said property and of the just and reasonable rates for the service thereby to be fur-

[fol. 6088] nished by said company to its patrons throughout the State of Ohio."

And it may be of interest to you to know who the members of the Commission then were: Charles C. Marshall, Chairman, George T. Poor and F. B. Maullar, Commissioners. This order bears date October 14, 1924. It may be well to recall that the company was required to file its inventory by December 1st, 1924.

On December 15, 1924, after the telephone company had filed its inventory pursuant to the Commission's order, the Commission called a conference of city solicitors in order to secure their views with respect to the conduct of the case, and the proceedings of that kind are reported in the first volume of the transcript of the evidence in that case, Pages 1 to 50, and I have it here if, after the meeting, anyone should choose to examine it.

At the conference many of the City Solicitors expressed themselves at some length. The consolidation of the pending cases and the institution of the state-wide case was commended as constituting a start toward fixing telephone rates in Ohio on the correct basis. The immense importance and value of the consolidated case to the people of Ohio and the merits of the case itself were conceded on all sides. None of the cities represented at the conference cared to spend time, effort or money upon the inquiry, and the record of the transcript is replete with that thought, although willing to co-operate in it to the broadest extent. It was understood by everyone present that the property of the company was to be valued as a whole, not by separate units, and that the [fol. 6089] commission considered it inadvisable to continue the independent inquiries in the individual cases. Everyone present—this is my own interpretation of the record—seemed to be in complete accord. Further, it was agreed that a legislative appropriation was necessary for the conduct of the consolidated case, the expense to which some of the municipalities had already been put in connection with their separate rate cases being too great to permit of further expenditures, and a search of the record in the case as well as the journals of the House and Senate will disclose that an appropriation of $100,000.00 was voted for such purpose.

Responsive to the suggestions that the company's inventory theretofore filed by order of the Commission should be subdivided so as to show the property by exchanges, it was

pointed out that if that were done, the consolidated case would immediately be divided into a large number of separate rate cases, which was the very thing the procedure in the consolidated case was intended to obviate, and I would have you bear that in mind. It was assumed that after the evidence had been completed and after the tentative valuation fixed by the Commission had been made final, the Commission would then be in position to determine the justness and reasonableness of all of the company's exchange rates as a whole as well as its toll rates.

In other words, it is fairly apparent from this conference, which covers some fifty pages of the record, that with the concurrence of all of the cities represented, the case was to proceed upon the company-wide basis; the property, revenues and expenses were to be considered as a whole, and the reasonableness or unreasonableness of the company's rates determined as a whole, that is, whether in their en- [fol. 6090] tirety they presented a balanced rate schedule, reasonable as between different classes of exchanges and as between different exchanges of the same class.

Now, I have stated the fair value of the company's property could be determined. That should be said, subject to the action of the Federal Court in the State of Illinois wherein there is pending now a case of like limitations and which, under the order of the Supreme Court of the United States in the well known case of Smith against Illinois, the court held, in reversing the action of the courts below, and the order of the Commission, that, amongst other things, it was necessary to consider the profits made by the Western Electric Company, a manufacturing company, upon the sale of its product to the Bell Telephone Company. That question has been submitted to the court for decision. It is expected that it will be decided within the next several days or a few weeks, perhaps, at the outside.

According to the court's holding in that case, the action of the Commission in this case, the one we are considering, may or may not be affected, either favorably or unfavorably. That is to say, if the court should hold, in effect, that the goods sold by the Western Electric Company for a price to the Bell Company were sold at too high a price, and that the Bell Company paid too much for those goods and that property having gone into the rate base or value of the Bell Company, that the valuation then might be and would be

affected according to any reduction that was made from that viewpoint or upon that theory.

If the cities are willing that the justness and reasonable-
[fol. 6091] ness of the company's rates shall be measured and determined by that method, this case can be determined very shortly. If, on the other hand, the state-wide valuation, revenues and expenses are to be broken down and allocated to each of the company's 150 exchanges, thereby making, in substance, a separate rate case which each City Solicitor will have to scrutinize and contest separately, the date for the final determination of this case in all of its phases and with respect to each and all of the exchanges must, of course, be extended indefinitely. I trust that the reading of that particular point will impress itself upon your minds.

Continuing the history of the case, it will be remembered that the consolidated case was inaugurated in October, 1924—I am now coming to the matter of delay—and that the company was required to file a complete inventory of all of its property by December 1, 1924. Then came the conference between the City Solicitors and the Commission at which it was suggested, among other things, that a special appropriation for the case be asked from the Legislature, followed by the securing of the appropriation, the selection of an engineer by the Commission, who in this particular case was W. J. Hagenah, and the appointment of special counsel by the Attorney-General, all of which consumed considerable time. The evidence offered by the company and by the state (all on the company-wide basis) was voluminous. There were more than 11,000 pages of testimony and more than 18,000 pages of exhibits. In February, 1927, the case was submitted to the Commission; briefs were filed in behalf of both sides by May, 1927, but on July 11, 1927, the Commission, over the protest of the telephone
[fol. 6092] company, granted the request of the then Attorney-General to reopen the case for the purpose of offering further valuation evidence. All questions of valuation were gone into a second time, in fact in some respects the previous testimony was elaborated, and it was not until April, 1930, that the evidence was concluded and briefs again submitted to the Commission.

Again to advert from the manuscript, upon the consolidation of the case into a state-wide case, the City solicitors and law directors and other officials of the affected cities,

largely, if not altogether, withdrew from active participation in the conduct of the case, and from that time forward until the present hour, your interests, the interests of the public, have been attended to by the several Attorneys General who have come and gone since the inception of this case.

By that time, nine different commissioners had heard parts of the evidence in the case. Much of the evidence had not been heard by the then commissioners, so that any review of the record necessarily required an extended amount of time. On January 10th, 1931, the Commission announced a tentative valuation of the property. That valuation was approximately 104 million dollars. Protests were filed both by the Attorney General and by the telephone company. The Attorney-General in his protest claimed the valuation was twenty million dollars too high and the company claimed it was forty million dollars too low. In speaking as we do of a million dollars, it might seem that we speak lightly of a million or two million or five million. In March, 1931, the Commission heard oral arguments in support of the protests.

Prior to that, however, the decision of the United States [fol. 6093] Supreme Court in the so-called Chicago case had been announced and it was considered that inasmuch as proof with respect to certain of the points referred to by the United States Supreme Court would be offered in the Chicago case, similar proof could with propriety and should be offered in the case at bar. These points included (1) the apportioning of the company's property, revenues and expenses as between intrastate and interstate, (2) the profits of the Western Electric Company from its Bell business, and (3) the cost to the American Telephone & Telegraph Company of performing the license contract service. As indicating the scope of the inquiry suggested by these points, the Western Electric issue alone involved all of the sales by that company for the period from 1916 to 1931 inclusive in an amount in excess of $3,500,000,000.

With respect to those points the company in this case offered considerable oral testimony and exhibits and furnished much information to the state, following which counsel for the state and for the company stipulated into the record in the present case a large part of the testimony and exhibits on these points in the Chicago case, and I have a copy of the stipulation before me.

The abstracted testimony, indices et cetera comprises eleven volumes, totalling more than 2500 pages. The exhibits on these points comprise several additional volumes totalling thousands of pages. All of this is in addition to the 14,000 pages of spoken testimony and the 20,000 pages of exhibits already in the case prior to the date of the fixing of the tentative valuation. All told, it is estimated that the entire record to date totals more than 40,000 pages. I [fol. 6094] am wondering what the reviewing court would do with 40,000 pages of testimony.

Obviously these points, now under consideration in the Chicago case, will be presented to the Supreme Court of the United States for final determination, the case having already been to the court twice before.

The foregoing review of the consolidated case will serve to indicate something of its size and extent and also some of the reasons why it has lasted over such a long period of time.

And I hesitate at this point to pause to say by way of repetition upon the point of delay, it was caused by, first, the re-opening of the case after its submission in 1927, and, second, the action of the Supreme Court of the United States in January, 1931.

The Commission is not unmindful of the desire of the city representatives for a speedy conclusion of the case. It has even been suggested that pending the fixing of the valuation and the determination of the question of final rates, the Commission be asked to fix emergency rates substantially less than those now charged by the company for its service. In other words, emergency rates would be fixed not only without first finding the fair value of the company's property, but also while that question is still pending before the Commission. Any proper party has the right to seek emergency rates and the Commission has no intention of infringing that right. The right of the Commission, on the other hand, to fix emergency rates in the present situation is quite another question. One Commission has already attempted to fix emergency rates without first finding the fair value of the company's property and determining the cost of rendering the service. As was to be expected, the company brought suit to enjoin the Commission's order, an interlocutory injunction was issued, the

[fol. 6095] case is still in the courts and further protracted litigation seems inevitable.

The case referred to is the Wisconsin case. Another case of like aspect is the Indiana case.

In discussing this phase of the situation, the ladies and gentlemen present will understand that there is no desire or intention on the part of the Commission to prejudge an application for emergency rates. At the same time emergency rate cases in other jurisdictions are brought to the Commission's attention from time to time. For example, the Indiana Commission recently fixed emergency rates for the service of an electric light company. In a suit to restrain the enforcement of the reduced emergency rates the federal court granted an interlocutory injunction, holding that rates can not be reduced in an emergency proceeding to such an extent as to deprive a utility of a fair and reasonable return upon the value of its property used and useful in supplying the city or town under consideration, and that an emergency order reducing rates must be based upon evidence sufficient to justify the reduction.

I think you will understand that in large measure, and notwithstanding we are merely a fact finding body; perhaps possessing only quasi judicial powers, we must follow the law as established by the courts in passing upon these questions.

Anyone interested in the case above referred to can find the report of it in P. U. R. 1932-D, Page 378.

I hope I am not tiring you and I want to give you as much as I can and something that I think is of interest and value to you, and if you will indulge, I desire to read from [fol. 6096] a publication upon the question that we are now considering. In Public Utilities Fortnightly for April 13th, 1933, Page 454, et cetera, the Chairman of the West Virginia Public Service Commission, in discussing the relation between Utility rates and commodity prices, used this rather impressive language. The author of the article from which I will read is Wade Coffman, Chairman of the West Virginia Public Service Commission. I happen to be acquainted with Mr. Coffman and I consider him to be a very able lawyer and student of utility questions.

Mr. Kerr: Your Honor, have you given the reference?

Chairman Hopple: Public Utilities Fortnightly, April 13, 1933. It is the last issue. It begins on Page 454 and I read starting at Page 456:

"(1) Common-sense economic laws require that the price of a commodity or the charge for a service must be as great as the cost of producing the commodity or rendering the service, if the production of the commodity is to continue or the service continue to be rendered.

(2) The state has no power to regulate the price of general commodities, and, therefore, does not fix the maximum charge which the producer may demand for his product. The excess of the sale price over the cost of production goes to the pocket of the producer to tide his business over the shoals of moderate depression.

(3) The state limits the price of public utility service at the legitimate cost of rendering such service, and compels the utility to supply the cost at not to exceed the cost thereof."

Upon our theory of rate-making, if it were humanly pos- [fol. 6097] sible to so gauge a return from one period of time to another, what the exact amount of money should be in dollars and allowable for operating expenses, for taxes, for depreciation reserves and a reasonable amount for surplus purposes, and a reasonable rate of return, then there could be no charge made, if such a plan could be worked out to a 100 per cent certainty, that a regulated business was enjoying income more than the rate of return so fixed by the regulatory body.

"One governmental principle remains to be mentioned: Under our system of constitutional government, whatever may be our sympathies with those of our people who in this period of financial distress find it hard to meet their monthly bills for water, fuel, light, transportation, or communication service, we are faced with the insurmountable barrier of due process of law when we attempt to reduce charges for such service to a point lower than the cost of supplying them. State regulatory laws compel a utility concern to continue to render adequate service to the entire community it professes to serve, and they limit the charges to be made for such service; but with all its power to make laws and enforce them, the state is utterly without authority to compel the rendering of a service for less than cost.

Lest there be some confusion from the frequent use in this paper of the term 'the cost of rendering service,' let it be pointed out that the courts have time after time defined that cost to include reasonable operating expenses, a rea-

sonable sum to repay the utility for that portion of its plant worn out in rendering the service, the amount laid out in taxes, and a just compensation for the use of its property by the public.

[fol. 6098] When the state has limited the price of a service to the sum of these items, it can go no further in the reduction of public utility charges. No more misleading statement on the subject of state regulation is made than the occasional declaration of the uninformed that the state guarantees the utility the payment of all the items included in the cost of rendering utility service. The law limits the charge to that cost; it holds out no guaranty of the payment of it. The law limits interest rates to six per cent a year, but it does not guarantee that a bank will earn its operating charges, including depreciation on its physical property, taxes, and a sum sufficient to pay dividends."

The article continues, I shall not read more of it, but I commend it to your attention, because it is a very interesting and valuable article.

Another case which has received considerable publicity is that of Smith versus Birmingham Gas Company, decided by the Alabama Commission last year. The Commission has no desire to discuss the case length, but it is perhaps appropriate to call attention to the second clause of the syllabus, which is as follows:

"Declining commodity prices are not of themselves a sufficient basis for a reduction in public utility rates, in view of the fact that utility business is controlled by a Commission and restrained during prosperous times from realizing higher profits which they might earn if their business were not so regulated."

Returning to the question of the company-wide case, the Commission has called attention to the circumstances under [fol. 6099] which the case arose, to the substitution of the consolidated case for the several separate cases at the time pending, the determination of the Commission as then constituted to value the company's property and determine its rate as a whole, the decision of the Commission that the separate exchange cases should not be gone into, the apparent concurrence in the Commission's plan by everyone concerned, the conduct of the case thereafter on the company-wide basis, the absence of any demand on the part of any city for a separation of property values, revenues or

expenses and the delay which such a separation would involve at this time, having stated the situation as it appears from the record, the Commission now welcomes a discussion of the entire situation by the representatives of the various cities and municipalities assembled, save and except where I desire to call attention to another matter before doing so.

The action of courts everywhere, regulatory bodies, judges and commissions no doubt is affected by the trend of public opinion, and you know as lawyers that decisions of the courts that have been pointed out as land marks in the development of the law and to which you gave reverence and attention when you were students of the law in law school, seem to have been departed from and indeed we are living, you might almost say, in a new era so far as the development of the law and the application of some of its principles to present day problems is concerned. And I now read, because I wish to impress you ladies and gentlemen with the same things or with some of the things or with the thoughts that we have in mind, and I would that you might accord with us in order that this case can be disposed of at the earliest time possible, I read from an editorial [fol. 6100] published in the Cleveland Press under date of April 11, this year, and republished in the Columbus Citizen, and other papers throughout the State of Ohio on subsequent dates, and no doubt most of you, if not all, have read the editorial. It occurs to me to be the briefest brief that can be supplied in this all-important case. Whether you concur or not, we do not know, but we hope you will.

"Law Directors of Municipalities interested in the state-wide Ohio Bell Telephone rate case have been invited to Columbus April 18th, to answer a question. It is, shall the rates be set for each individual community on the basis of local valuation, expenses and revenues, or shall the cities be classified into population groups and uniform rates be set for each class on the basis of valuation, expenses and revenues for the entire state? The Public Utilities Commission has set a tentative valuation of 104 million dollars for the entire Ohio Bell property used and useful. It has state-wide figures on expenses and revenues. Unless the Commission can get the money to employ an army of accounts" • • •

And I have a thought, I am going to advert at this point, that I think I should communicate to you, notwith-

standing the volume of the work of the Commission, which has constantly been increasing during the last several years, the amount of money appropriated by the General Assembly of Ohio, your Assembly and ours, has been made less and less each succeeding year. Our budget request for the ensuing year provided for an appropriation of approximately $165,000.00. The trend of the times—I am assuming that, however—dictated the judgment of the members of the assembly to say, "You have asked for too [fol. 6101] much, you are only entitled to and therefore, we will only give $144,000.00," and that notwithstanding that the Public Utilities of Ohio pay into the State Treasury as required and provided by law each year, $200,000.00 for the purpose of having this Commission take over it, regulate it, but we are not permitted, and notwithstanding our needs for additional help, engineers, appraisers and accountants, to enjoy the use of a part of that money for these reasonable purposes and about which much complaint is being made thereby. I say that to you because it is a commonplace matter, it is a step perhaps in the line of state economy as it is in local economy, but I think that liberal allowances should be made for the handicap under which we are obliged to perform some of the important services in the matter of formal rate cases before the Commission.

"Unless the Commission can get the money to continue to employ an army of public accountants, it is estimated that four or five years more would be necessary to break down the valuations, expenses and revenues to apply to each municipality. To set rates for classification on the basis of state-wide figures would be a much speedier process, perhaps could be accomplished in four or five months."

I think I should advert to the extent of saying in the reading of the editorial that you keep in mind the pendency of a similar question in the Illinois jurisdiction and which is for decision with the court now, because that decision will have a direct bearing upon the decision of the case in this state.

"It seems to us that the law directors should agree to the classification method in the interest of speed, even though the average rates thus set may be prejudicial to [fol. 6102] some communities. The quicker this nine year old Pence Law case is disposed of, the better. It has everything tied up. Even if a good business dictated that the Bell Company reduce rates, that company fears to move

lest it prejudice its case. While it is pending Bell officials do not dare admit that lower rates might turn out as advantageous to the company as to its subscribers."

With this, the meeting now, Mr. Kerr, and others present, is an open meeting. We have tried to impress upon you what we feel is the correct view that the Commission should take of the case, and in the light of circumstances as they exist and in keeping with the resolution that you have adopted, we hope you will indicate to us that you are in accord with our views, and if you are not in accord with our views, that appropriate action be taken to indicate what your views may be or should be as to the final disposition of the case.

Mr. Kerr: If Your Honors please, I would like to say a word in regard to what you have told us, and at the outset, I want to say this, I think perhaps Your Honors are under some misapprehension, from what you have said, with regard to the position of the Law Directors and Solicitors here. A group of us came to Columbus two weeks ago to learn, not to promulgate any ideas or to throw out any suggestions, but simply to learn what the exact situation was. At that time, we were definitely informed that probably not one cent out of this bond money collected could ever be realized by the communities until some principle of re-allocation of the value of the property used and useful was made to the districts. The idea didn't come from us. It is not our idea and we have not suggested any such idea nor have we come to any conclusion whatsoever with regard [fol. 6103] to any such idea. The idea itself was suggested here in Columbus and we have just accepted it, that is all, with no reaction on it in any way.

Second, we were definitely informed that the Attorney-General would continue to co-operate and assist the law directors and the city solicitors with regard to this case, but that the appropriation had run out and that as for taking the command and responsibility for the case as it had been done heretofore, that that probably would not continue.

We were also informed when we were here, that a definite breakdown and analysis of the operating costs and expenses was necessary to this commission before their decision in the case.

With all these ideas, we went back to the Attorney General. We vibrated between this building and our own meetings and the Attorney General's office, and the com-

mittee got an expression from the Attorney General as to his position with regard to the present status of the case, and also as to his offer with regard to voting on the board for further funds to hire experts if that was necessary. That attitude I tried, with the Committee, to convey to this Commission.

Now, let me say that it is the desire of our groups above everything else not to come down here with one single idea or suggestion or proposition that will in any way delay the decision in this case. We make no suggestion, we offer nothing that will in any way hamper the Commission at all. If you will notice, that resolution that you read says after the Commission has made its decision, we offer our co-operation in every way.

[fol. 6104] Chairman Hopple: After the decision?

Mr. Kerr: Yes, sir.

Chairman Hopple: After the decision is made, what co-operation would be then required?

Mr. Kerr: The suggestion was made here in Columbus that that question of re-allocation would come up. Now, we have just accepted the statements on that idea and have had no action on it.

Chairman Hopple: You mean a decision, Mr. Kerr, on the matter of valuation?

Mr. Kerr: Yes. I want to say this, for the wording of those statements in the paper and so forth, I can carry no responsibility. I will say, however, that the ideas that we did discuss and had brought up at the meeting were the ideas suggested there, not with the thought, as they are put in the newspaper article, as to what the Committee was going to do and suggest and so forth, they were just disgusted, that is all.

Now, Mr. Bricker promised us at that meeting that he would try to be here today and suggest for us a principle of re-allocation, should that be found necessary, after your decision is made, simply for the solicitors, and the law directors to consider.

Now, if I may sum up our position, and that is all I want to do at this moment, may I say this, that the councils of the various committees are passing resolutions, I have one here from Youngstown that I would like to submit to Your Honors which is characteristic of those that are being passed throughout the state. We have petition- from tele-

[fol. 6105] phone users that are coming in. That and the

Attorney General's position with regard to the responsibility that he bears with regard to this case and the fact that we want to do our duty is the thing that brings us here, besides your invitation, of course; I mean we are simply trying to co-operate with the Commission and not inject any new idea whatsoever. I thought Your Honor had some thought in all of this material that he was giving us that we were coming here directly with an application for re-allocation. There is no such thing in our mind.

Chairman Hopple: Well, Mr. Kerr, upon the basis as indicated by what I have heretofore said, do you concur in the thought or suggestion that we proceed along the line and in keeping with the purposes that are discussed and that resolved themselves into the order of consolidation in December, 1924?

Mr. Kerr: Well now, Your Honor, that is a very definite and positive question, and as I tried to say, there is no expression of this body to the contrary that I know of and I don't like to make any attempt to speak for the body in any way.

Chairman Hopple: Oh, no. I am just asking you the question.

Mr. Kerr: What I would like to have your permission to do is after this thing has been discussed here to whatever extent Your Honors care to discuss it, you allow us to hold our meeting right here in this room and discuss those questions. Really, we are just getting into this problem because somebody has said we ought to be here, that is all there is to it.

Chairman Hopple: Mr. Herbert, you represent the At-
[fol. 6106] torney General of Ohio and the Commission as well. Have you any suggestion?

Mr. Herbert: Why, I was invited over to the meeting of the City Solicitors this morning rather unexpectedly, I mean I didn't anticipate attending any session until this afternoon, and they asked me for a resume of the situation. I tried briefly and hastily to outline to them the history of the proceedings to date and of my own volition, without knowing the contents of the paper that the chairman has prepared and read here this afternoon. I expressed the opinion, which was purely personal because I have not discussed it with the Attorney General, that it will put off the day of ultimately closing this case to a point that I don't believe any of us present in the room will still participate

in it if we seek to go back to each individual exchange area and separate the property, revenues and expenses with a view to trying to strike an accurate rate for each particular locality. And how to best ultimately determine the case I wasn't quite certain, although I suggested the idea of a classification of rates, based on trying to take into account locality situations generally and yet at the same time trying to adapt it to the total findings and orders of this Commission with relation to the State-wide property, revenues and expenses.

Now, I haven't a definite plan in mind at the moment any more than I had when I talked to the City solicitors this morning. Of course, if this Commission should find the net return for these years to be reasonable on the basis of the rate base that the Commission finds, it may not be necessary to upset any of the present rates. If the Commission finds that there has been an excess collected in these years, [fol. 6107] the question of breaking down and allocating to each community the property, revenues and expenses to determine the source of excess I think will exceed the spirit of the language of Chief Justice Hughes in the Illinois case where it is said exact accuracy can not always be obtained, and I think this Commission has before it the entire property, has before it the entire revenue and expense situation of the company for the period, and if this Commission fixes a structure of rates which returns to the company the amount which this Commission decides it should receive, then it will have complied with the statutes of Ohio without going down to the necessary breakdown in each community.

I say that because, having lived with the case as long as I have, I can see the extreme distress that will arise in any group of accountants that attempt to break that down. I frankly don't know how it can be done accurately without taking a good many more years to do it, during which we still would have the rates being collected under the Pence Law bond.

So in the interest of expediting the whole case, I think that when the Commission has arrived at its findings on valuation and expense and revenue, that if it finds a readjustment of rates necessary, the readjustment should be done not by the method of allocation, but by the general method of reconstruction of the rate structure on a classification basis sufficient to return the revenue which this Commission finds the company entitled to.

Chairman Hopple: Do you want to ask a question, Judge? Or will we let them have their conference?

Commissioner Geiger: I happen to have had the honor of being present at the time the city solicitors were here [fol. 6108] about two weeks ago, not all that are here now, but a lessor group, in which we went over informally the situation of this Bell Telephone case. Now, I am exceedingly concerned individually that you do not get into your mind that upon the fixing of the valuation of this property the work of the Commission is then done. It has taken a great many years to arrive at even a tentative valuation, which, as you have been told, was 104 million dollars. Now, that is the base upon which their company is entitled to earn an income, whether it be 104 million or 94 million or any other amount.

Heretofore, it has been the custom of the Commission to announce a valuation, after they first announced a tentative valuation, and then either side or, in a great many cases, both sides have taken that question to the Supreme Court, which affects only the valuation of the property. I think the Commission is justified in making a departure from the old rule by which when they make an announcement of anything, they make an announcement both of the valuation of the property and of the rates to be charged, in order that the question may not be split up into two angles, either of which could go to the Supreme Court.

I wouldn't like the people who are interested in this to get the notion that when and as we have finally determined the value of that property, that then our work is done, because the very important question comes in as to the revenues and expenses. You can appreciate this, I think, if you might learn that the expenses of the company as reported are from twenty to thirty million dollars a year.

Now, it rests upon the shoulders of the Commission and [fol. 6109] those who may help the Commission to determine what, if any, part of that charge so made by the company is an excessive charge, if there be any; if, for instance, four million dollars is too much to allow for depreciation. Those matters must be threshed out after we have arrived at the determination of the value of the property.

I don't mean that we should defer until that time until we investigate that matter. We are already investigating that, we are already going through the process of determining what are the proper expenses of the company to be

allowed to them for the management of their business, and we don't intend to wait before we take that matter up until we are enabled, after the determination of the Illinois case, to find what is the proper value of the property.

The only reason I say this is that I don't want you to get in too high a state of anticipation as to an immediate decision of this case. If we can make it at a date earlier than you anticipate, it will be exceedingly gratifying to us; but if we should be compelled to delay it to a date beyond which you think it should be decided, that would be very obnoxious to us and also would subject us to probably unfair criticism.

The only thing I want you to bear in mind is that when you have arrived at the valuation of the property, you are practically only half way through the case. I might point this out as an illustration, a hundred million dollars is fixed as the value of the property and we will say the company is entitled to six per cent, that is six million dollars. But if there are twenty-five or thirty million dollars expenses, every dollar that may be overcharged as an expense is a [fol. 6110] hundred per cent dollar. In other words, your dollar of valuation is only a six per cent dollar and your dollar of expenses is a hundred per cent dollar. So that it becomes very important that we examine closely the expenses and revenues of the company as they have reported it and as we may be able to ascertain it. I only say this, Ladies and Gentlemen, just to caution you about not being too optimistic about getting a decision right away. We will do the best we can and we will avoid in that case that procedure that has called for vexatious delays in announcing the valuation of the property, the company then takes it to the Supreme Court upon the sole question of valuation and the Supreme Court remand- it back to us and then we would fix the revenues and expenses and they would take that again to the Supreme Court and that would again be remanded back to us. In other words, we will endeavor not to take two bites at a cherry, even though it be a very large cherry; we will try to get through with it at one time.

Chairman Hopple: Judge Schaber, have you any suggestion?

Commissioner Schaber: No.

Chairman Hopple: Now, was it your understanding, Mr. Kerr, that you wanted to confer with your associates, and then invite us back or what is your plan?

Mr. Kerr: Why, I would like to confer with them and then do whatever they think is the proper procedure.

Chairman Hopple: In other words, you wish to confer with your associates and see whether they are willing to express themselves upon the basis of the state-wide order in the consolidated case and the suggestions that have been made supplemental thereto?

Mr. Kerr: Yes, sir.

[fol. 6111] Chairman Hopple: I think what has been said fairly well represents our views, sufficient for you to proceed and if you wish to confer and deliberate for a while. When you conclude your deliberations, you may call us, we will return. I should like to say a few words to you before you dissolve your meeting. So we will retire.

And thereupon a recess was taken until 4:25 o'clock P. M., at which time the following proceedings were had:

COLLOQUY

Mr. Kerr: Judge, I have placed on your desk, just for you to look at for a moment, I am going to ask for them back again because they are not directed directly to you, an action of one of the councils of the different municipalities, just to show what they are doing, and a petition signed by individuals.

Chairman Hopple: Very well.

Mr. Kerr: I just thought you would like to look at them.

Chairman Hopple: All right, Mr. Kerr, you may proceed.

Mr. Kerr: If Your Honors please, the gentlemen here have discussed the question that you presented to us and several other matters and they have passed this resolution which they ask me to present to Your Honor:

"It is the sense of the representatives of the various cities and municipalities that this telephone rate case be submitted to this Commission upon the evidence, briefs and arguments already made and before the Commission; that the case proceed in the form in which it now is, it being the hope that this may enable an early determination of the said case and that the same may not be unduly delayed by [fol. 6112] the case now pending in Illinois."

Then they passed one other motion and the sense of that motion is that I request you to tell us what remains to be done to complete the evidence in the telephone case and give us your suggestions as to the method which you will use in accomplishing such completion. In other words, that is a matter of information as to what the Commission is going to do.

Chairman Hopple: I shall attempt to answer it in this fashion. Reference was made to the determination of the case without waiting for the decision of the court in the Illinois case. We can take two views of that matter, and I should say to you at the beginning that not only is the Illinois case comparable to the Ohio case and the Ohio comparable to the Illinois case in that the same issues are involved, but there is also pending in the State of Wisconsin and I think perhaps in the State of Texas, I am not sure if I am correct about that, a similar case.

If we proceed without waiting for the decision of the court in the Illinois case, and assuming, as you may without a suggestion from us, as to what that decision will be, the actual decision will determine the course of the company in appealing from any judgment that this Commission might enter in advance of the time when such an order is made. The question of profits of the Western Electric Company, which is a manufacturing company and supplies its product to the Bell companies, enters into the valuation very materially. Upon the assumption of counsel for the state in this case that the prices charged by the Western Electric are unreasonably high prices, it therefore results [fol. 6113] in an undue and improper inflation of the valuation in the case in this particular instance and which valuation should be reduced, according to the claim of the state. I doubt whether it would be advisable, if a decision is imminent within the next several weeks, to undertake to pass upon the valuation question in this case without waiting for that decision. It is an important matter, too important to not consider.

Now, you asked the question what remains to be done. Let me answer it. A tentative value of the company's property has been found by the Commission, 104 million dollars. Protests to that valuation, to that finding, were filed by both the state and the company and argued. The Commis-

sion has not yet passed upon these protests and fixed a final valuation.

The Commission can pass upon those protests so filed without waiting for the decision in the Illinois case, but again we meet with the same circumstance in doing that thing as I have already referred to and indicated. If the valuation is made final, the company will appeal its case for review in the Supreme Court of Ohio on the question of valuation.

The Commission is much more desirous of short-cutting, so to speak, if it can, by passing upon the matter of final valuation, the matter of operating costs, operating expenses and rate of return, so as to bring the matter to the attention of the court, if it goes there, at one time, instead of having two separate proceedings to the Supreme Court for review at different times.

May I illustrate what I have said by calling your attention to the experience in the old Logan Gas Company case? The matter of valuation was found, taken to the Supreme Court, [fol. 6114] reversed, remanded and sent back to the Commission, another valuation was made and that went to the Supreme Court. That was finally determined by the Court on an affirmance of the Commission's act and the valuation became final. Then the matter of revenues and expenses was the next question to consider. That case is one of the two or three old remaining cases still with the Commission, but the Commission wasn't able, in spite of what it might have desired to do, to speed to any material extent the disposition of that case.

Now then you asked, in addition to what I have already said, what further remains to be done aside from the matter of making the valuation a final valuation. No further evidence, so far as we can foresee, needs to be introduced. A stipulation was agreed to by the Company and by the Attorney General last December in which it was provided that certain evidence from the company's side of the case as well as from the state's side of the case in the Illinois case would be introduced en bloc into the record in this case. The company has furnished all of the evidence required by it under that stipulation. There is a possibility, I am not quite clear about it, that there is a slight bit of evidence yet to be furnished by the state under that stipu-

lation. When that is done all of the evidence will be in and the record will be complete.

Does that answer the question?

Mr. Kerr: I think it does, Your Honor. I think that is very definite.

Chairman Hopple: Now, let's see that resolution that you have there again, Mr. Kerr, or will you read it to me again?

Mr. Kerr: What do you mean, Your Honor?

[fol. 6115] Chairman Hopple: The first resolution that you read.

Mr. Kerr: You have it right there. You mean the one with the blue back that I gave you?

Chairman Hopple: No, the one you had in pencil, in longhand.

Mr. Kerr: "It is the sense of the representatives of the various cities and municipalities that this telephone rate case be submitted to this Commission upon the evidence, briefs and arguments already made and before the Commission; that the case proceed in the form in which it now is, it being the hope that this may enable an early determination of the said case and that the same may not be unduly delayed by the case now pending in Illinois."

Chairman Hopple: Pardon me, is that all?

Mr. Kerr: That is all there is to the resolution, and that was a definite attempt to answer your question.

Chairman Hopple: I think I understand it, except that I wish to observe when you revert to the use of the phrase "briefs, arguments and evidence already in the case", there is only, so far as I know, one brief in the case at the present time. Under the stipulation to which reference has been made, occurring last December, it was agreed that when all of the evidence was furnished under the stipulation, that briefs would be filed covering the entire case, that is to say, the matter of valuation and revenues and expenses and the rate of return. There are no such briefs at this moment in the record. Am I right, Judge Geiger?

Commissioner Geiger: That is right.

Chairman Hopple: Mr. Herbert, the representative of [fol. 6116] the Attorney General, is preparing such a brief and I am also informed that counsel for the company is preparing such a brief. The case has not been argued. The usual practice is to file the briefs and then argue the case.

I would say that we feel that the case should be briefed, within a reasonable time, of course, and arguments had, if it is thought proper that arguments should be had. Is that a fair statement to make?

Mr. Kerr: Oh, yes, that is a fair statement and interpretation. We were trying to answer your question as to any change in method. But I would suggest to Your Honors this, I don't quite understand the statement that you make in connection with the impression that I have received here in Columbus with regard to this brief. Now, I may be badly mistaken, but I was under the impression that this brief which is coming had to do only with the Western Electric valuation.

Chairman Hopple: Oh, no.

Mr. Kerr: Now, I may be very wrong, but I wish the Commission would, I would ask the Commission to take it upon itself to find out whether that brief is going to include what you say.

Chairman Hopple: Well, there isn't any necessity for answer. I can say to you now that there is no such brief in the case at this time nor is the impression that you have that it would only relate to Western Electric profits correct.

Mr. Kerr: Well, I am not worrying about your understanding, Your Honor, I am worrying about the understanding of the people who are getting up the brief.

Chairman Hopple: Oh, there is no doubt about that, there is no doubt about that whatever.

[fol. 6117] Mr. Kerr: I may be badly mistaken on that.

Chairman Hopple: The record on that point would speak for itself as well, because that actually is the fact.

Well, then, my understanding is, Mr. Kerr, Ladies and Gentlemen, that it is the wish of the various representatives who are here present today that the Commission proceed to dispose of this case upon and along the lines established when the case became the state-wide consolidated rate case and you so make that statement a matter of record.

Mr. Kerr: Do you want me to answer that?

Chairman Hopple: No, not necessary. I think if there is nothing more to come before this meeting that it might be appropriate to say that these are difficult days for everyone, for the layman as well as the lawyers, and I have heard

reports that it was very difficult for lawyers, difficult for business, unregulated business, as well as regulated business.

It is very gratifying oftentimes when one contemplates, reflects and thinks upon present conditions that the temper of the people has been so complacent with matters and conditions and circumstances as they actually exist. I have pointed out in other hearings of lesser importance than this to people who were present that we were glad that they were here and that they could witness the proceedings of this Commission, that they could observe the members of the Commission and that they had perhaps had their first contact with the Commission as well as a first understanding of the work of the Commission. And then I would add that we were glad that they were present and that they would return to their respective communities with a different viewpoint of the problems that we had to solve. And I [fol. 6118] make this same observation to you——

You have just offered, Mr. Kerr, for our examination, a resolution to which there is attached the signature of many people complaining about rates. It rarely goes to the question of service. We get petitions of this kind almost every day now. Now, what do you suppose would be the answer that would come from the community where the petition originates if the Commission should pay no attention to the filing of such a petition? We therefore have undertaken to give expression insofar as it is possible, not only to the receipt of the petition, and its filing, but also to a proper disposition of it so that word might go back that we had considered the matter.

Whatever the errors of omission or commission may have been in the past as affecting other commissions, we are not chargeable with that. This Commission as now constituted feels the responsibility of meeting a public situation that is not only alarming, but could become threatening, if not an absolute menace to existing business institutions and to the welfare of society generally.

We do not resent criticism when it is made to aid and assist the Commission, as distinguished from criticism that is not based on facts or is entirely self-serving, because such criticism is not constructive, it is destructive. Nor does the Commission resent an occasional word of commendation from the body politic for the honest and conscientious dis-

charge of its sworn public duty. And I am not laying an indictment or filing an information against anyone present on this particular point. Nevertheless, it is, in part, the answer for the numerous petitions that are filed here.

[fol. 6119] It might seem vain on my part to say so, it may be an expression of personal egotism to say that we do have a proper regard for our duty to the public, and that we have a proper regard for existing institutions. I sometimes think if the same attention had been given by the public press to banks and bankers as is now given and has been for some time past to public utilities—and again the charge will be made that I am utility-minded—the banking situation would not be in its present chaotic state. And if I may make this further observation, the influence of laxity and lax methods in banks and banking reached out and penetrated into the fabric of not only regulated business, but unregulated business as well.

The point I desire to make is this, Ladies and Gentlemen, we feel, as I have said, that these are troublesome days and that we really and truly occupy a position between the two sides of this and every case before us and we must maintain a state of mind that will fairly, reasonably and judiciously determine all questions on a basis of equity and equality as between the parties in each case. If the Commission were to yield from that position, I am not going to undertake to forecast what the result might be.

There is one thing more that I want to say, and I again refer to the news item wherein it is said, "They", meaning the representatives of the various communities, "are prepared to offer the Commission any additional information it thinks it needs in this case." Of course, we would be glad to have your suggestions and if you have any information that can be supplied that would be helpful from your point of view, of course, produce it, bring it in, give it to us; we will be glad to receive it and consider it for whatever value [fol. 6120] it may have, that is to say, independently of the record in the case.

We do fell that you can do a great deal more than that, and to that extent, in this particular case, you can go to the communities from which you come and you can discuss now perhaps with a little more clarity than before, questions that are asked as to why the delay in the Bell Telephone case, and you also can do a great deal of good work by chal-

lenging the attention and the judgment and the thought of the individuals with whom you discuss the case to consider it from the viewpoint that there is much more involved than just merely the rate that he or she may be paying for the particular service at that particular time.

Now, I hope that we haven't offended anyone. I have talked rather long, perhaps, but I wanted you to know first the history of the case, I wanted you to know what occasioned the delay, circumstances entirely beyond the control of this Commission, I wanted you to know that we felt that it was wise to follow the original plan of arriving at a settlement, also wanted you to know something about the emergency rate question. Then, with the final word that I have already announced, we wanted you to help us, we want to help you, and I am quite certain that altogether under these circumstances, we can do much to satisfy the unrest and the discontent that seems to prevail everywhere.

And with this, this hearing will be adjourned, with the further assurance that if we can settle this case soon, you may be confident that we are going to settle it. That will be all.

And the foregoing are all of the proceedings had on this hearing of this cause.

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[fol. 6121] Wednesday Morning Session, August 1, 1934.

And thereupon the further hearing of Case No. 3307, in re Ohio Bell Telephone Company, was resumed, pursuant to adjournment, before Hons. F. W. Geiger and Charles F. Schaber, Public Utilities Commissioners.

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[fol. 6122] ARCHIBALD J. ALLEN, called as a witness, on behalf of the Commission, being first duly sworn, testified as follows:

Examined by Mr. Herbert:

Q. Mr. Allen, will you state your full name and connection with the Ohio Bell Telephone Company?

A. Archibald J. Allen, Vice President of the Ohio Bell Telephone Company, 750 Huron Road.

Q. Was the information contained in the rate and revenue

data furnished by the company to the Commission as of April 17th, 1934, prepared under your direction?

A. It was.

Q. Will you turn to the page relating to the Cleveland Exchange Area? You show on that page certain rates for each class of service. Are we to understand that if those rates had been in effect in the Cleveland area in 1925, they would have produced the revenues contained in the second column under the caption, "B" at the bottom of the page?

A. Under "B" and opposite the year 1925, that is correct.

Q. Then midway in the page there is a column of figures under the heading, "Approximate annual amount collected under bond from each increased charge", that column comes under the higher heading of "Business extensions". Do those amounts, commencing with $9,760.00 in 1924 and varying amounts for the ensuing years, do they represent the excess collections collected by virtue of that dollar extension charge?

A. On the assumption that the number of business extensions were as they were in those particular years, it would have resulted in this reduction.

Q. Actual for the year 1925, but assuming for the subsequent years?

A. No, assuming for 1925 that the extensions would have [fol. 6123] been the same as they were in 1925 irrespective of the change in rates.

Q. Now the last column under the heading "D" at the bottom of the page, the figures there contained include the totals of that column that I was just discussing headed by the number 9760, is that correct?

A. Yes, and in addition the collections under bond due to other variations and under message charges for additional messages and so forth.

Q. Now is this column under the heading "D", amount of total exchange revenue collected under bond, is that an actual figure taken from the company's books or is that a calculated figure?

A. That figure was supplied to us by Mr. Brett from the company's books or from his calculations based on the company's books.

Q. The column under the heading "C", net reduction in revenue is a calculated figure applying the rates which you

show up above on the page to the existing stations as of 1925?

A. The figures shown in Column "C" opposite each year are a subtraction of the figures shown in Column "B" from the figures shown in Column "A".

Q. What I meant, I should have said the figures shown in Column "B" are the calculations of revenue, applying the rates shown above on this page to the existing number of stations in the Cleveland Exchange Area in 1925?

A. To the existing number of stations in 1925 and the existing classes of stations as they were in 1925, yes, sir.

Q. I am only confining this to the 1925 figure in each column.

A. I see.

Q. Now, I take it that the same method was applied in all the other information furnished for the other different exchanges over the state, exchange areas, that is the same method of calculation?

A. Yes.

[fol. 6124] Q. Of reduction of revenue?

A. Assumed schedules based on the instructions of the Commission for the year 1925 were taken and applied to the existing stations for 1925.

Q. Who determined the rates shown under the heading "This is not a schedule of rates. It is submitted solely for the information of the Commission pursuant to the attached letter"?

A. Well taking the Commission's order as of January 16th and March 1st and interpreting it as well as we could, the various people in my department, rate engineers, various others, in consultation arrived at these rates as complying as near as we could with those instructions.

Q. Well, I mean it wasn't arrived at by any one person?

A. I wouldn't say so, no, sir, I think it was arrived at, I will say, honestly, in consultation with the various rate engineers and executives.

Q. Well, but I mean in a practical way, somebody established those figures for Cleveland, didn't they?

A. The group of people who are assigned to that work.

Q. Well, will you name the group?

A. Mr. Wilson and his rate assistants, including Mr. Snider and Mr. Reger and various others. This isn't a work of any one individual.

Q. Well, when you finished with the establishment of these rates as a proffer to the Commission that had they been in effect in 1925, they would have fitted the Commission's requirements, taken in conjunction with all the other rates contained in that data furnished on April 17th, you say when you finished with that you knew that the reductions prescribed amounted to 2½ cents per station for business service?

Mr. Thompson: To which question the respondent ob-
[fol. 6125] jects. I am sure Mr. Herbert doesn't want to say that we have proffered these rates to the Commission. We haven't.

Mr. Herbert: No, I didn't say you proffered them as rates. I say you proffered them to the Commission.

Commissioner Schaber: We understand that.

Mr. Thompson: And I also want to make the objection, this witness has previously testified and the letter of transmittal shows that if these rates had been applied to the services actually rendered in Cleveland for 1925 they would have produced these reductions. Now, Mr. Herbert's question contains the assumption that if they had been in effect in 1925, they would have produced this reduction. That is an entirely different question. I therefore object to it on that ground.

Commissioner Geiger: Well, I don't see the difference in the question. What he is asking you is this, had these rates that you have disclosed in this filing of April 17th been in operation in Cleveland in 1925, and all other facts in reference to income had been the same as they were, would they have produced a less amount for that exchange in the amount you have here indicated?

The Witness: I don't understand Mr. Herbert's question. I would like to have it read.

Commissioner Geiger: Well, do you understand mine?

The Witness: Yes, I understand yours. I will be glad to answer that.

Commissioner Geiger: Well all right, what about it, is that so or not?

The Witness: Assuming that the stations in Cleveland for 1925 remained the same and these rates were applied, [fol. 6126] the calculations as shown in Column "B" are, to the best of our knowledge, mathematically correct.

Q. My question, Mr. Allen, is, you and the group which arrived at these rates shown on the page applicable to the Cleveland Exchange Area——

Commissioner Geiger: Are you using page 23?

The Witness: Yes, it is page 23.

Q. Yes, sir. Knew that the actual reductions so far as the individual station was concerned was 2½ cents for a business phone, placing them on a comparable basis?

A. I don't see any such calculation.

Q. Did you have any data tending to show the average number of calls per month on a business line?

A. Yes, we have such data.

Q. Was that consulted in the preparation of this sheet? In other words, are you prepared to say what is the average number of monthly calls on a business line in the Cleveland exchange area?

A. No, I am not.

Q. Do you know whether it would be in the zone between 80 calls and 85 calls?

A. No, sir.

Q. Do you know whether it is above 85 calls or not?

A. I couldn't say.

Q. Could you ascertain that without much trouble?

Mr. Thompson: The average for what time, Mr. Herbert?

Mr. Herbert: Any month.

Mr. Thompson: 1925 or now? There is a difference in calling rate of course all the time.

Mr. Herbert: The average for each of the years. I will say that it is my impression that the average business station in Cleveland always uses in excess of 85 calls a [fol. 6127] month. Now I don't know whether that is the fact or not, but that is my impression. If that is conceded by the company I don't care about the exact number.

Mr. Thompson: I can't concede something I don't know, but I will inquire and if that is the fact——

Mr. Herbert: My point is if that is the fact, the reduction shown there amounts to 2½ cents per station per month because you have 80 calls at $5.25, whereas the existing rate is 85 calls at $5.50.

Mr. Thompson: The information you request, Mr. Herbert, is not available without an investigation.